

**ISSUES REGARDING EVERGLADES NATIONAL PARK
AND SURROUNDING AREAS IMPACTED BY MAN-
AGEMENT OF THE EVERGLADES**

OVERSIGHT HEARING
BEFORE THE
SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC
LANDS
OF THE
COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES
ONE HUNDRED SIXTH CONGRESS
FIRST SESSION

APRIL 27, 1999, WASHINGTON, DC

Serial No. 106-24

Printed for the use of the Committee on Resources



Available via the World Wide Web: <http://www.access.gpo.gov/congress/house>
or

Committee address: <http://www.house.gov/resources>

U.S. GOVERNMENT PRINTING OFFICE

57-272 ⇐

WASHINGTON : 1999

COMMITTEE ON RESOURCES

DON YOUNG, Alaska, *Chairman*

W.J. (BILLY) TAUZIN, Louisiana	GEORGE MILLER, California
JAMES V. HANSEN, Utah	NICK J. RAHALL II, West Virginia
JIM SEXTON, New Jersey	BRUCE F. VENTO, Minnesota
ELTON GALLEGLY, California	DALE E. KILDEE, Michigan
JOHN J. DUNCAN, Jr., Tennessee	PETER A. DeFAZIO, Oregon
JOEL HEFLEY, Colorado	ENI F.H. FALEOMAVAEGA, American Samoa
JOHN T. DOOLITTLE, California	NEIL ABERCROMBIE, Hawaii
WAYNE T. GILCHREST, Maryland	SOLOMON P. ORTIZ, Texas
KEN CALVERT, California	OWEN B. PICKETT, Virginia
RICHARD W. POMBO, California	FRANK PALLONE, Jr., New Jersey
BARBARA CUBIN, Wyoming	CALVIN M. DOOLEY, California
HELEN CHENOWETH, Idaho	CARLOS A. ROMERO-BARCELÓ, Puerto Rico
GEORGE P. RADANOVICH, California	ROBERT A. UNDERWOOD, Guam
WALTER B. JONES, Jr., North Carolina	PATRICK J. KENNEDY, Rhode Island
WILLIAM M. (MAC) THORNBERRY, Texas	ADAM SMITH, Washington
CHRIS CANNON, Utah	WILLIAM D. DELAHUNT, Massachusetts
KEVIN BRADY, Texas	CHRIS JOHN, Louisiana
JOHN PETERSON, Pennsylvania	DONNA CHRISTIAN-CHRISTENSEN, Virgin Islands
RICK HILL, Montana	RON KIND, Wisconsin
BOB SCHAFER, Colorado	JAY INSLEE, Washington
JIM GIBBONS, Nevada	GRACE F. NAPOLITANO, California
MARK E. SOUDER, Indiana	TOM UDALL, New Mexico
GREG WALDEN, Oregon	MARK UDALL, Colorado
DON SHERWOOD, Pennsylvania	JOSEPH CROWLEY, New York
ROBIN HAYES, North Carolina	
MIKE SIMPSON, Idaho	
THOMAS G. TANCREDO, Colorado	

LLOYD A. JONES, *Chief of Staff*

ELIZABETH MEGGINSON, *Chief Counsel*

CHRISTINE KENNEDY, *Chief Clerk/Administrator*

JOHN LAWRENCE, *Democratic Staff Director*

SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS

JAMES V. HANSEN, Utah, *Chairman*

ELTON, GALLEGLY, California	CARLOS A. ROMERO-BARCELÓ, Puerto Rico
JOHN J. DUNCAN, Jr., Tennessee	NICK J. RAHALL II, West Virginia
JOEL HEFLEY, Colorado	BRUCE F. VENTO, Minnesota
RICHARD W. POMBO, California	DALE E. KILDEE, Michigan
GEORGE P. RADANOVICH, California	DONNA CHRISTIAN-CHRISTENSEN, Virgin Islands
WALTER B. JONES, Jr., North Carolina	RON KIND, Wisconsin
CHRIS CANNON, Utah	JAY INSLEE, Washington
RICK HILL, Montana	TOM UDALL, New Mexico
JIM GIBBONS, Nevada	MARK UDALL, Colorado
MARK E. SOUDER, Indiana	JOSEPH CROWLEY, New York
DON SHERWOOD, Pennsylvania	

ALLEN FREEMYER, *Counsel*

TODD HULL, *Professional Staff*

LIZ BIRNBAUM, *Democratic Counsel*

GARY GRIFFITH, *Professional Staff*

CONTENTS

Hearing held Month, Day, 1999	Page 1
Statements of Members:	
Hansen, Hon. James V., a Representative in Congress from the State of Utah	1
Prepared statement of	4
Romero-Barceló, Hon. Carlos, a Delegate in Congress from the Territory of Puerto Rico	6
Prepared statement of	7
Letter to Hon. Alex Penelas, Mayor of Miami-Dade County, from Hon. Bob Graham, and Hon. Connie Mack	26
Statements of witnesses:	
Aguilera, Ibel, The United Property Owners & Friends of the 8.5 Square Mile Area, Inc.	99
Prepared statement of	103
Jones, Ronald D., Ph.D, Southeast Environmental Research Program, Florida International University	48
Prepared statement of	50
Leary, William, Senior Counselor to Assistant Secretary for Fish, Wildlife and Parks, National Park Service; accompanied by Richard Ring, Superintendent of the Everglades National Park	7
Prepared statement of	10
Lehtinen, Dexter, Esq., Lehtinen, O'Donnell, Vargas & Reiner, P.S., representing Miccosukee Tribe of Indians of Florida	75
Lorion, Joette, Environmental Consultant	79
Prepared statement of	83
MacVicar, Thomas K., P.E., President, Federico & Lamb, Inc.	52
Prepared statement of	55
Rice, Colonel Terry L., U.S. Army Retired, Florida International University, and Advisor, Miccosukee Tribe of Indians of Florida	35
Prepared statement of	39
Shiver, Hon. Steve, Mayor, City of Homestead, Florida	95
Prepared statement of	97
Additional material supplied:	
Barley, Mary L., The Everglades Foundation, Inc., prepared statement of	136
Diaz-Balart, Hon. Lincoln, letter to Mr. Hansen	22
Dieguez, Elena, prepared statement of	129
Forten, Madeleine, prepared statement of	135
Prieto, Armando J., prepared statement of	133
Rinaldi, Charles R., Deputy Director, South Florida Water Management District, Florida, letter to landowners	118
Walfer, Ray, Senior Real Estate Specialist	122
Rosario, Emilio, prepared statement of	127
Sweeting, Debbie, prepared statement of	124
Sweeting, Robert, prepared statement of	125
Truth Patrol: Rebutting the Myth and Misinformation Campaign in the 8.5 Square Mile Area	138

OVERSIGHT HEARING ON ISSUES REGARDING EVERGLADES NATIONAL PARK AND SUR- ROUNDING AREAS IMPACTED BY MANAGE- MENT OF THE EVERGLADES

TUESDAY, APRIL 27, 1999

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL
PARKS AND PUBLIC LANDS,
COMMITTEE ON RESOURCES,
Washington, DC.

The Subcommittee met, pursuant to call, at 10 a.m. in Room 1324, Longworth House Office Building, Hon. James V. Hansen [chairman of the Subcommittee] presiding.

Mr. HANSEN. The Committee will come to order.

Good morning and welcome to the oversight hearing today. We have many people here today, so I would like to make an opening statement and proceed with the business at hand.

STATEMENT OF HON. JAMES V. HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

The Everglades, in the State of Florida, represents the largest wetland ecosystem in the United States, about 18,000 square miles of land, rivers, and lakes. This complex ecosystem has been considerably impacted by the development and water management in central and south Florida. Over many years, various protective measures for the Everglades have been enacted by Congress, but problems still abound.

The Clinton Administration has more recently announced the South Florida Ecosystem Restoration Initiative which led to the creation of the South Florida Ecosystem Restoration Task Force by the Water Resources Development Act of 1996. This Task Force is comprised of a large number of Federal, State, tribal, and local agencies and stakeholders and has established three main goals: one, get the water right, that is, restoring the natural hydrological function of the Everglades; two, restore the natural systems by land acquisition and changing land use; and, three, transform the developed environment.

Finding solutions to restore the Everglades has not been cheap. Since 1993, approximately \$1.2 billion has been provided from Federal funding to implement the activities of the Restoration Initiative. It is projected that at least \$11 billion will be spent on these activities over the next 20 years. Where and how this enormous

amount of money has and will be spent is, obviously, of great concern to this Committee.

The issues surrounding the huge area of land and water of the Everglades are as complex as the ecosystem. Many of these issues are linked to the Restoration Initiative and will be examined within the scope of this oversight hearing. Areas in particular that are the subject of this oversight hearing include the land acquisition requirements in the 1989 Everglades National Park Protection and Expansion Act and subsequent amendment in 1994 and how these requirements impacted the Modified Water Delivery Project, the Miccosukee Indian Tribe, and an area of land known as 8-1/2 Square Mile Area.

In 1989, Congress passed the Everglades National Park Protection and Expansion Act, which authorized the addition of 107,600 acres of land in the eastern part of the Park. This Act also authorized the Modified Water Deliveries Project, Mod-Water Project, which, when finished, supposedly will restore the natural water flow into the Shark River Slough by moving water under the Tamiami Trail and into the Everglades National Park.

It was the express intent of the Congress that all the land acquisition be completed by 1994 and was expected to cost approximately \$81 million. To date, however, both the land acquisition and the Mod-Water Project are years behind schedule, with the Mod-Water Project now not scheduled for completion until 2003, if everything goes right, and it probably won't.

The cost of the land is projected to be at least \$50 million more than the first estimate. So far, less than 60 percent of the land has been acquired, and most of this has been the larger tracts of land. Hundreds of individual landowners still must negotiate a deal, while others have never been contacted.

Also in the 1989 Expansion Act was a provision which provided for the flood protection for the 8-1/2 Square Mile Area. This privately owned area currently has approximately 430 residents and is used extensively for agriculture. Although the Army Corps of Engineers had responsibility for the construction of the flood control project, the Department of the Interior was responsible for funding it. This arrangement has caused nothing but problems and delays. In fact, actual construction of the flood protection was never begun.

Compounding the situation is an amendment to the 1989 Expansion Act passed in 1994 which provided for acquisition of additional lands which affect the restoration of natural water flows to the Everglades National Park or Florida Bay. The amendment also authorized the Federal Government to provide not more than 25 percent of the funds necessary for the total cost of the acquisition.

The 8-1/2 Square Mile Area was included in this amendment. However, because of the development within the area, its geographic location and elevation, it is clear that the 8-1/2 Square Mile Area should not be considered to affect the natural water flow of the Everglades. I think we will see conclusive evidence of that. As a matter of fact, studies commissioned by three separate Governors of Florida along with many scientists and hydrologists support this finding.

In regard to the funding, Secretary of Interior Babbitt has stated they will contribute 50 percent of the amount needed to buy out the

8-1/2 Square Mile Area clearly exceeding the 25 percent threshold mandated by Congress. It amazes me. The authority Secretary Babbitt has for far-exceeding the 25 percent threshold has not been forthcoming from the Interior Department.

In 1992, the Army Corps of Engineers, in consultation with the Park Service, submitted a report which stated that acquisition of the 8-1/2 Square Mile Area was not necessary and included mitigation measures to protect the area from flooding.

Contrary to that report, the Park Service maintained that this was not an acceptable solution. The Park Service, therefore, has refused to release the funds mandated by the 1989 Expansion Act to provide flood control for the 8-1/2 Square Mile Area. In fact, in 1998, the Park Service notified the Corps of Engineers that it would no longer provide funds for the 8-1/2 Square Mile Area flood mitigation.

Also in 1998, the South Florida Water Management District issued a decision endorsed by the Park Service to acquire the 8-1/2 Square Mile Area rather than implement the flood mitigation plan proposed by the Corps of Engineers in 1992. However, it is clear from the bill report language accompanying the 1994 amendment that the Act does not authorize Federal imminent domain.

It is known that the vast majority of land owners in the 8-1/2 Square Mile Area are not willing sellers. The lack of willing sellers prevents another formidable obstacle to overcome before natural water flows begin.

Regardless of whether the reason is the non-attainment of the land acquisition mandated in the 1989 Expansion Act or the failure to construct the flood mitigation measures for the 8-1/2 Square Mile Area or the forced proposal to outright acquire the 8-1/2 Square Mile Area, the fact remains that natural water flows through the Everglades have been needlessly delayed.

The Park Service's delays and purposeful inactivity to get the water flowing again has severe negative impacts on lands that the Miccosukee Indian Tribe has use of, namely Water Conservation Area 3A. Because the Park Service has been delinquent in implementing any plan that actually moves the water, it has been stacking up in the WCA 3A for a number of years. This has led to unnaturally high water levels throughout the water conservation area. The effect of this water stacking has been dramatic. In fact, the Everglades in WCA 3A is drowning. Tree islands, known as hammocks, are disappearing as tree roots rot because of high water levels. Wildlife within this area is dying as well. All of this combination has had and will continue to have severe and dire consequences to the Everglades if water does not start flowing again.

One of the primary goals of everyone involved in the Everglades is to get the water moving again in a more natural flow. For a variety of reasons, however, the Interior Department and the Park Service are doing their utmost to delay projects and avoid reasonable solutions which will accomplish this.

The fact remains that something has got to be done to implement projects that will help restore natural water flows as soon as possible. Delaying known solutions only exacerbates these problems. The Congress must find ways to implement activities which will

get the water moving once again. This oversight hearing intends to help accomplish this goal.

I would like to invite Everglades Superintendent Richard Ring to please sit at the witness table. Is that you at the table?

Mr. LEARY. No, sir. My name is Bill Leary.

Mr. HANSEN. Let us get Mr. Ring up there if we could. Thank you. Thank you, Mr. Ring.

I also want to mention that the Army Corps of Engineers was asked to testify today and be present to answer questions. Even though their offices received an invitation on April 15, they contend that they were unaware of the hearing until last Friday, so they will not be here today and even declined to send someone to answer any questions.

Is there anyone here from the Corps of Engineers? We are going to have to exercise the power of subpoena around here, aren't we? I guess snafus like this one is symptomatic of the Federal Government not taking action in the Everglades.

With that, I will welcome all of our witnesses, and I will recognize my friend from Puerto Rico, the Ranking Minority Member, for any comments that he may have.

[The prepared statement of Mr. Hansen follows:]

STATEMENT OF HON. JAMES V. HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Good morning everyone and welcome to the oversight hearing today. We have many people here to testify, so I'd like to make an opening statement and then proceed to the business at hand.

The Everglades, in the State of Florida, represents the largest wetlands ecosystem in the United States—about 18,000 square miles of land, rivers, and lakes. This complex ecosystem has been considerably impacted by development and water management in central and south Florida. Over many years various protective measures for the Everglades have been enacted by Congress, but problems still abound. The Clinton Administration has more recently announced the South Florida Ecosystem Restoration Initiative which led to the creation of the South Florida Ecosystem Restoration Task Force by the Water Resources Development Act of 1996. This Task Force is comprised of a large number of Federal, state, tribal, and local agencies and stakeholders and has established three main goals: (1) Get the water right, i.e., restoring the natural hydrological function of the Everglades; (2) Restore the natural systems by land acquisition and changing land use; and (3) Transform the developed environment.

Finding solutions to restore the Everglades has not been cheap. Since 1993 approximately \$1.2 billion has been provided from Federal funding to implement the activities of the Restoration Initiative. It is projected that at least \$11 billion will be spent on these activities over the next twenty years. Where and how this enormous amount of money has and will be spent is, obviously, of great concern to us.

The issues surrounding the huge area of land and water of the Everglades are as complex as the ecosystem. Many of these issues are linked to the Restoration Initiative and will be examined within the scope of this oversight hearing. Areas in particular that are the subject of this oversight hearing include the land acquisition requirements in the 1989 Everglades National Park Protection and Expansion Act and subsequent amendment in 1994 and how these requirements impact the Modified Water Delivery Project, the Miccosukee Indian Tribe, and an area of land known as the 8.5 square mile area.

In 1989, Congress passed the Everglades National Park Protection and Expansion Act which authorized the addition of 107,600 acres of land to the eastern part of the park. This Act also authorized the Modified Water Deliveries Project (Mod-Water Project) which, when finished, supposedly will restore the natural water flow into the Shark River Slough by moving water under the Tamiami Trail and into the Everglades National Park. It was the express intent of the Congress that all the land acquisition be completed by 1994 and was expected to cost approximately \$81 million. To date, however, both the land acquisition and Mod-Water Project are years behind schedule with the Mod-Water Project now not scheduled for completion.

until 2003, if everything goes right—and it probably won't. The cost of the land is projected to be at least \$50 million dollars more than the first estimate. So far, less than 60 percent of the land has been acquired and most of this has been the larger tracts of land. Hundreds of individual landowners still must negotiate a deal, while others have never been contacted.

Also in the 1989 Expansion Act was a provision which provided for the flood protection for the 8.5 Square Mile Area. This privately owned area currently has approximately 430 residences and is used extensively for agricultural. Although the Army Corps of Engineers had responsibility for the construction of the flood control project, the Department of the Interior was responsible for funding it. This arrangement has caused nothing but problems and delays. In fact, actual construction of the flood protection was never begun.

Compounding the situation is an amendment to the 1989 Expansion Act passed in 1994 which provided for acquisition of additional lands which affect the restoration of natural water flows to the Everglades NP or Florida Bay. The amendment also authorized the Federal Government to provide not more than 25 percent of the funds necessary for the total cost of the acquisition. The 8.5 Square Mile Area was included in this amendment. However, because of the development within this area, its geographic location, and its elevation, it is clear that the 8.5 Square Mile Area should not be considered to affect the natural water flow of the Everglades. I think we will see conclusive evidence of this today. As a matter of fact, studies commissioned by three separate Governors of Florida along with many scientists and hydrologists support this finding.

In regard to the funding, Secretary of Interior Babbitt has stated that they will contribute 50 percent of the amount needed to buyout the 8.5 Square Mile Area clearly exceeding the 25 percent threshold mandated by the 1994 amendment. The authority Secretary Babbitt has for far-exceeding the 25 percent threshold has not been forthcoming from the Interior Department.

In 1992, the Army Corps of Engineers, in consultation with the Park Service, submitted a report which stated that acquisition of the 8.5 Square Mile Area was not necessary and included mitigation measures to protect the area from flooding. Contrary to that report, the Park Service maintained that this was not an acceptable solution. The Park Service, therefore, has refused to release the funds mandated by the 1989 Expansion Act to provide flood control for the 8.5 Square Mile Area. In fact, in 1998 the Park Service notified the Corps of Engineers that it would no longer provide funds for the 8.5 Square Mile Area flood mitigation. Also in 1998, the South Florida Water Management District issued a decision, endorsed by the Park Service, to acquire the 8.5 Mile Square Area rather than implement the flood mitigation plan proposed by the Corps of Engineers in 1992. However, it is clear from the bill report language accompanying the 1994 amendment that the Act does not authorize Federal imminent domain. It is known that the vast majority of land owners in the 8.5 Square Mile Area are not willing sellers. The lack of willing sellers presents another formidable obstacle to overcome before natural water flows begin.

Regardless of whether the reason is the non-attainment of the land acquisition mandated in the Area, or the forced proposal to outright acquire the 8.5 Square Mile Area, the fact remains that natural water flows through the Everglades have been needlessly delayed. The Park Service's delays and purposeful inactivity to get the water flowing again has had severe negative impacts on lands that the Miccosukee Indian Tribe has use of, namely Water Conservation Area 3A. Because the Park Service has been delinquent in implementing any plan that actually moves water, it has been stacking up in WCA 3A for a number of years. This has led to unnaturally high water levels throughout this water conservation area. The effect of this water stacking has been dramatic and, although counterintuitive, the fact is the Everglades in WCA 3A is drowning. Tree islands, known as hammocks, are disappearing as tree roots rot because of high water levels. Wildlife within this area is dying as well. All of this combined has had and will continue to have severe and dire consequence for the Everglades if water does not start flowing again.

One of the primary goals of everyone involved in the Everglades is to get the water moving again in a more natural flow. For a variety of reasons however, the Interior Department and the Park Service are doing their utmost to delay projects and avoid reasonable solutions which will accomplish this. The fact remains that something has got to be done to implement projects that will help restore natural water flows as soon as possible. Delaying known solutions only exacerbates these problems. The Congress must find ways to implement activities which will get the water moving once again. This oversight hearing intends to help accomplish this goal.

I would like to invite Everglades Superintendent Richard Ring to please sit at the witness table, as I am fairly certain that at least a few questions will come his way. I also want to mention that the Army Corps of Engineers was asked to testify today and be present to answer questions. Even though their offices received an invitation on April 15, they contend they were unaware of the hearing until last Friday, so they will not be here today and even declined to send someone to answer any questions. I guess snafus like this one is symptomatic of the Federal Government not taking action in the Everglades.

With that, I'd like to welcome all our witnesses here and now recognize the Ranking Minority Member for any comments.

STATEMENT OF HON. CARLOS ROMERO-BARCELÓ, A DELEGATE IN CONGRESS FROM THE TERRITORY OF PUERTO RICO

Mr. ROMERO-BARCELÓ. Thank you, Mr. Chairman.

Mr. Chairman, the restoration of the Everglades ecosystem has been a matter of considerable importance to this Committee, as well as to the entire Congress.

I remember the first Congress I was here, we had a field trip hearing down in the Everglades, beyond the Everglades, into Key West to see the effect that the flow of the waters had had on the Keys. So it has been something—that and many other issues have been before this Committee very, very often.

The 1989 Everglades National Park Protection and Expansion Act as well as the Act's 1994 Amendment involved the bipartisan effort of this Committee, as well as the Florida congressional delegation. It is our understanding that this oversight hearing is focusing on the 1989 Act and its 1994 Amendment, particularly the land acquisition of the Congressional Acts.

Evidently, with funds provided by Congress, the National Park Service has made significant progress in acquiring the 107,600 acres of lands authorized by the 1989 Act for the Park. The 1994 Amendment to the Everglades Act specifically authorized the Secretary of the Interior to contribute to the State of Florida up to 25 percent of the cost of acquiring three areas, including an area known as the 8-1/2 Square Mile Area. The 1996 Farm Bill and the fiscal year 1999 Appropriations Act subsequently authorized the Federal contribution of 50 percent for these acquisitions.

The decision of South Florida Water Management District to proceed with the acquisition of the 8-1/2 Square Mile Area has been a matter of considerable controversy. We understand that the National Park Service is undertaking a NEPA review as part of determining whether to proceed with contributing to the acquisition as authorized by Congress.

The important thing here is that there has been a great delay in the implementation of all of this plan, as the Chairman has indicated.

Also, I would like to point out I have met with my staff to try to figure out why the changes in the plans of the acquisition of the land and why the interest in acquiring the 8-1/2 Square Mile Area instead of doing—building up the levees and the dams that were supposed to be built around the 8-1/2 Square Mile Area. I just don't understand. I hope that in this hearing we get some clarification as to why these changes have been made so we would understand what is the reason instead of following the original plan.

Mr. Chairman, the 1989 Everglades Protection Act and the Act's 1994 Amendments are important aspects of the effort to restore the Everglades. We look forward to hearing the testimony of our witnesses today in regards to these matters.

Mr. HANSEN. I thank the gentleman.

[The prepared statement of Mr. Romero-Barcelo follows:]

STATEMENT OF HON. CARLOS ROMERO-BARCELÓ, A DELEGATE IN CONGRESS FROM
THE TERRITORY OF PUERTO RICO

Mr. Chairman, the restoration of the Everglades ecosystem has been a matter of considerable importance to this Committee, as well as to the entire Congress.

The 1989 Everglades National Park Protection and Expansion Act, as well as that Act's 1994 Amendment involved the bipartisan efforts of this Committee, as well as the Florida Congressional delegation. It is our understanding that this oversight hearing is focusing on the 1989 Act and its 1994 Amendment, particularly the land acquisition of the Congressional Acts.

Evidently, with funds provided by Congress, the National Park Service has made significant progress in acquiring the 107,600 acres of lands authorized by the 1989 Act for the Park. The 1994 Amendment to the Everglades Act specifically authorized the Secretary of the Interior to contribute to the State of Florida up to 25 percent of the cost of acquiring three areas, including an area known as the eight and one-half square mile area. The 1996 Farm bill and the Fiscal Year 1999 Appropriations Act subsequently authorized a Federal contribution of 50 percent for these acquisitions.

The decision of the South Florida Water Management District to proceed with the acquisition of the eight and one-half square mile area has been a matter of considerable controversy. We understand that the National Park Service is undertaking a NEPA review as part of determining whether to proceed with contributing to the acquisition as authorized by Congress.

Mr. Chairman, the 1989 Everglades Protection Act and the Act's 1994 Amendments are important aspects of the effort to restore the Everglades. We look forward to hearing the testimony of our witnesses today in regards to these matters.

Mr. HANSEN. The gentleman from Nevada, do you have any opening comments?

The gentlelady from the Virgin Islands?

The gentleman from Washington?

STATEMENT OF WILLIAM LEARY, SENIOR COUNSELOR TO ASSISTANT SECRETARY FOR FISH, WILDLIFE AND PARKS, NATIONAL PARK SERVICE; ACCOMPANIED BY RICHARD RING, SUPERINTENDENT OF THE EVERGLADES NATIONAL PARK

Mr. HANSEN. I appreciate our witnesses being with us today.

Mr. Leary, I will start with you; and then we will ask Mr. Ring if you have any comments. The floor is yours.

Mr. LEARY. Thank you, Mr. Chairman.

My name is Bill Leary. I am senior counselor to the Assistant Secretary for Fish and Wildlife and Parks for the Department of Interior. I also serve as an advisor to Secretary Babbitt on matters relating to the Everglades and south Florida ecosystem.

Mr. Chairman, I have a statement for the record that I believe addresses the issues, as I understand them, you wish to discuss today. However, in the interest of time, what I prefer to do is address the issue that seems to be, at least from your statement, the central issue before us, which is the 8-1/2 Square Mile Area. If you will indulge me, I would like to just very briefly explain to you how we got from where we were to where we are today with respect to the 8-1/2 Square Mile Area.

Mr. HANSEN. Mr. Leary, let me say this. Your statement and all other statements, without objection, will be included in the record in full. Any way you want to abbreviate your statement is perfectly fine with us.

Mr. LEARY. Thank you, sir.

The 8-1/2 Square Mile Area needs to be understood—issues relating to it need to be understood, in the following context that I would like to lay out for you.

In the 1970s, Congress enacted a series of Acts to make sure that water deliveries to Everglades National Park were adequate to protect the Park. In 1988, Governor Martinez appointed a task force which came to the conclusion that the Park was receiving inadequate waters through its main artery, Shark Slough.

In 1989, in reaction to those concerns expressed from the State of Florida and others, Congress enacted the 1989 Everglades Park Protection and Expansion Act which, Mr. Chairman, you referred to.

That Act did three things. It authorized the Secretary of the Interior to expand Everglades National Park by roughly 107,000 acres, to bring more of Shark Slough into Federal ownership. Two, it authorized the Corps of Engineers to design the Modified Water Deliveries Project to improve the delivery of the water into the Park. And, three, it provided that, in designing the project, the Corps was to protect the 8-1/2 Square Mile Area and other residential and agriculture nearby areas from the impacts of that water delivery system.

The Corps of Engineers designed the Modified Water Deliveries Project in 1992. The announcement of the design of that was immediately followed by Hurricane Andrew which hit the area. You will be hearing more about the impacts of that storm from one of your witnesses, Mayor Shiver, later. But that brought a lot of things to a halt as people were picking up their lives down in south Florida.

In any event, in 1993, the State and others determined that Florida Bay was suffering great harm. Florida Bay is also the recipient of much of its water from Shark Slough through Everglades National Park. So the issue was revisited by the Congress in 1994.

And, Mr. Chairman, as you mentioned, in 1994, the Congress suggested and authorized us to take a different approach, suggesting that perhaps the best approach was to buy the 8-1/2 Square Mile Area, Rocky Glades and the Frog Pond to the south, and provided the Secretary with the authority to cost share with the State of Florida for the acquisition of the 8-1/2 Square Mile Area and those other properties.

In 1995, Governor Chiles appointed a committee to look at the 8-1/2 Square Mile Area. That committee was composed of representatives of the State of Florida, the South Florida Water Management District, the Corps of Engineers, Everglades National Park, and the residents of the 8-1/2 Square Mile Area.

They took a year looking at the options, a little bit less than a year, and issued a report, a unanimous determination, Mr. Chairman, by all of those parties. They rejected full acquisition of the 8-1/2 Square Mile Area and rejected the original Corps plan. What they suggested was a flow way buffer approach to the 8-1/2 Square Mile Area that linked it to the flow way buffer that was being de-

signed for the C-111 project to the south. It was a unanimous decision.

The parties then attempted to enter into an agreement, a statement of principles to effect that proposal. All parties signed onto it. The Corps of Engineers, through the district engineer at the time, who is one of your witnesses today, refused to sign the statement of principles. So he raised questions, legitimate questions, about whether that was the best approach. But his refusal to sign meant that the deal fell apart.

The South Florida Water Management District then in 1996 took it upon itself to review the alternatives to determine if it wanted to do a locally preferred option to the Corps' project. They engaged in that analysis.

During the course of their analysis, which began in 1996 and culminated last November, 1998, the Governors Commission for Sustainable South Florida, which is a group in south Florida appointed by the Governors and composed of representatives of virtually all interest groups, addressed this subject. A subcommittee of the Commission, headed by another one of your witnesses today, Mr. Lehtinen, encouraged the commission to adopt a resolution that was in the nature of asking the South Florida Water Management District, to make a decision and move on. It encouraged the Water Management District to make a decision about what it wanted to do as a locally preferred option by December 31st, 1998, and to come up with a funding solution for it by September of 1999.

Heeding that advice, in part, the Water Management District Governing Board in November of 1998, after analyzing all the alternatives, came to the conclusion that it supported full acquisition of the 8-1/2 Square Mile Area. This was well within the recommended time line.

As a result of that decision, the Corps of Engineers is now engaged in the NEPA process of reviewing that alternative and the options before it. The Department of Interior has engaged with the Corps to try to expedite the NEPA analysis for the purpose of determining which option to support financially. And that is where we find ourselves today.

Mr. Chairman, because the decision is yet to be determined, I don't know what the outcome is going to be. I believe I understand the views of the residents of the 8-1/2 Square Mile Area area. I have been there. I have met with them. Mr. Chairman, for the most part, they want to be left alone. I believe I understand the views of the Miccosukee Tribe. I have had many spirited and frank conversations with both Mr. Lehtinen and Mr. Rice about the concerns of the Tribe. We understand them.

We are attempting, Mr. Chairman, to do the right thing for Everglades National Park consistent with our understanding of what congressional intent is. We believe you should expect that of us, and that is what we are attempting to do, Mr. Chairman.

I am here representing the National Park Service and the Department of the Interior as your witness. I will be happy to answer any questions.

Mr. HANSEN. Thank you, Mr. Leary. We appreciate that.
[The prepared statement of Mr. Leary follows:]

STATEMENT OF WILLIAM LEARY, SENIOR COUNSELOR TO THE ASSISTANT SECRETARY
FOR FISH AND WILDLIFE AND PARKS

Mr. Chairman, my name is Bill Leary. I serve as Senior Counselor to the Assistant Secretary for Fish and Wildlife and Parks for the Department of the Interior. I also serve as an advisor to Secretary Babbitt on issues related to the restoration of the Everglades and the south Florida Ecosystem. I appear here today on behalf of the National Park Service and the Department of the Interior.

I am pleased to be here today to discuss several issues related to the restoration initiative. Secretary Babbitt has repeatedly and accurately referred to this as the largest environmental restoration effort ever undertaken. It is one of the top environmental priorities of the Clinton/Gore Administration and has enjoyed strong bipartisan congressional support.

Because of the enormity and importance of this initiative, the Federal Government has entered into unprecedented relationships with the State of Florida and tribal, regional, and local governments to guide our collective efforts, despite diverse missions and authorities. The progress being made, largely under the auspices of the South Florida Ecosystem Restoration Task Force, is a result of these partnerships and, at the Federal level, from the substantial bipartisan efforts of the Congress and the Administration.

This is an unprecedented undertaking, requiring difficult decisions to resolve complex issues. It requires enormous cooperation among four separate sovereigns, dozens of State and Federal agencies, and hundreds of regional and local governments. So far as possible we attempt to achieve consensus on how we should proceed. Given differing missions, authorities and interests, I believe we are achieving remarkable success in south Florida. That is not to say that there are no disagreements or difficulties to be overcome. But we have the means to resolve them and we do.

As we understand it, the Subcommittee wishes to discuss several issues that affect Everglades National Park: the requirements of the 1989 Everglades National Park Protection and Expansion Act and 1994 amendments, particularly the land acquisition requirements, and how they impact the Modified Water Deliveries Project, the Miccosukee Tribe, and the Water Conservation Areas.

Mr. Chairman, we welcome this hearing and the interest of the Committee members in the important and ongoing efforts to restore the environment of Everglades National Park.

I. Everglades National Park Protection and Expansion Act of 1989

A. History

Everglades National Park, established in 1947, has long been considered the most threatened park in the National Park System. The history of Federal and State conservation efforts in the Everglades are directly linked with development of the vast water management system that has led to the decline of the ecosystem in general and the park in particular. Both span over 50 years. The national heritage values at stake are beyond question. It is the only protected sub-tropical wetland in the nation. Its wonders are widely known, and draw visitors from around the nation and the world. The many threats confronting its future are also well-known.

Throughout the park's 52 years, a close Federal and State partnership has mutually worked toward achieving its conservation objectives. As required by its authorizing legislation, the park became a reality in 1947 by the donation of lands from the State of Florida. Over subsequent enlargements of the park boundary, State participation has been a key factor, including the donation of about 43,000 acres within the 1989 expansion area.

A major concern for park restoration surfaced in the 1980's and centered on the exclusion of the northeastern portion of the Shark River Slough from the park when originally authorized. This major tributary was the central flow way of the original Everglades, the "River of Grass" immortalized by the late Marjory Stoneman Douglas. By drawing the park's boundary through the middle of Shark Slough, water that had once flowed freely in a slow, broad expanse, was now artificially funneled to the west. As a result, the eastern portion was kept artificially dry.

In 1970, Congress enacted the first in a series of congressional acts designed to address hydrological and ecological problems in Everglades National Park and mandated a minimum of 315,000 acre-feet of water to be delivered to the park from Water Conservation Area 3A. This minimum delivery schedule was subsequently modified by Congress in 1984 in response to excessive regulatory releases to the park following high rainfall. The experimental program for delivery of water authorized in the 1984 Act was thereafter extended by Congress in 1989 and 1992.

Nonetheless, the park continued to suffer due to interruptions in the natural flow of water into the park through Shark Slough. Addressing this threat to the park

became a local and national cause. Governor Bob Martinez formed the East Everglades Task Force in 1988, which reported, "Restoration and protection of Everglades National Park cannot be accomplished unless the East Everglades area is acquired and surface flows are restored through it."

Congress responded to this dilemma with passage of the Everglades National Park Protection and Expansion Act of 1989. Its purposes were to (1) increase the level of protection of the outstanding natural values of the park and to enhance and restore its ecological values, natural hydrological conditions and public enjoyment; and (2) assure the park is managed in order to maintain the natural abundance, diversity, and ecological integrity of native plants and animals as part of their ecosystem.

B. East Everglades Addition to Everglades National Park

This farsighted legislation reflected Congress' clear recognition of the serious problems of declining park resources and the need for quick action to correct the problems. The legislation expanded the boundaries of the park and authorized the Secretary of the Interior to acquire approximately 107,000 acres in the Expansion Area.

The acquisition of lands in the Expansion Area has been difficult due in large part to the fact that they consist of thousands of small parcels, the ownership of which has been often difficult to determine. These parcels are comprised of land which are regularly inundated with water and essentially unfit for development.

In addition, we have received varying levels of funding for this purpose which have been inadequate to allow the timely acquisition of the Area. However, in 1997, we began in earnest to complete these critical acquisitions as quickly as possible. With the help of Congress, we are nearing completion.

In FY 1998, we received \$26 million toward the acquisition of the remaining acres, leaving lands estimated at \$40 million to be acquired. In FY 1999, Congress provided the National Park Service \$20 million toward that balance. Our FY 2000 budget request for the remaining \$20 million will allow us to complete these acquisitions.

We have also recently received declaration of take authority which will substantially increase the rate with which we will be able to complete the acquisition of the Expansion Area. Because the land is unsuitable for development and there is no public opposition, this authority will allow us to settle more quickly with the landowners by avoiding many of the title issues that have previously delayed acquisitions. Under this authority, all property owners will, of course, receive just compensation for their property.

As of March 31, 1999, 70,881 acres (2,645 tracts) have been acquired in the Expansion Area, including 28,792 acquired and 42,089 donated by the State.

This leaves 36,343 acres (5,268 tracts) in private ownership yet to be acquired to complete the acquisition of the area. We have made remarkable progress toward completion in the past three years due to increased funding levels from Congress and the recent authorization of declaration of take authority. The latter is critical due to the difficulty in closing acquisitions on so many small parcels, the ownership of which is scattered. We are hopeful that the National Park Service will have completed its responsibilities in the acquisition of lands in the Expansion Area as early as 2001.

Accordingly, we are pleased to report to the Subcommittee that we are well on the way to meeting the intent of Congress to put emphasis on completion of land acquisitions to benefit the park.

C. Modified Water Deliveries Project

The Everglades National Park Protection and Expansion Act of 1989 also authorized changes in the Central and Southern Florida Project to provide for improved water deliveries to the park and authorized the Army Corps of Engineers (Corps) to mitigate any adverse impact from the project modifications on adjacent agricultural and residential areas, including the 8.5 Square Mile Area (SMA), the Rocky Glades Agricultural Area, and the Frog Pond.

In 1992, the Corps developed the Modified Water Deliveries Project, which included the mitigation plan for the 8.5 Square Mile Area. This project, funded by the Department of the Interior through appropriations to the National Park Service "Construction" appropriation, is designed to restore more natural hydropatterns in Water Conservation Area 3 (WCA-3) and Shark River Slough. The project is currently scheduled by the Corps for completion in 2003 if several difficult issues can be resolved. The project will involve the removal and modification of existing levees and canals, along with construction of new water control structures and pump stations. Some of the project features are underway. In December 1998 construction

was completed on two new water control structures, S-355A and S-355B, that will help to reestablish flows from WCA-3B to Northeast Shark River Slough. The project also required the Miccosukee Indian community of Tigertail Camp to be raised to prevent flooding the community. This construction feature, which also included replacing substandard housing with new concrete homes, is complete.

D. 8.5 Square Mile Area

A significant issue impacting the Modified Water Deliveries Project remains the long-standing controversy over the 8.5 SMA. The 8.5 SMA consists of about 5,600 acres immediately adjacent to the Expansion Area of Everglades National Park and west of the L-31N levee. It was developed in the 1960's and has about 1,200 residents and 365 structures. The issue about how to restore natural flows of water to the park through Shark Slough and the resultant impacts on the 8.5 SMA have for years presented a challenge.

Despite the authorization for mitigation for the area contained in the 1,989 Act, clear evidence of harm to Florida Bay, led Congress in 1994 to revisit the issue. Congress amended the 1989 Act to authorize the Department of the Interior to help acquire the 8.5 SMA, as well as Rocky Glades and the Frog Pond, as an alternative to mitigation.

In 1994, Governor Lawton Chiles established the East Everglades 8.5 SMA Study Committee to review alternatives to the Corps mitigation plan for the 8.5 SMA. In 1995, the committee recommended a solution in the form of a flow way/buffer project. This option would have required acquisition of up to half the acreage within the 8.5 SMA, above the amounts needed for the Corps' mitigation plan (which called for construction of a canal and levee). The committee's option would use the acquired lands as a water detention area to provide full (1 in 10 years) flood protection to the remainder of the area. It would also link hydrologically with the flow-way buffer being planned for the C-111 project to the south. In 1995 the Corps had modified its plan for the C-111 project, which included the acquisition of Rocky Glades and the Frog Pond, to create a flow-way/buffer to provide for hydrologic restoration of the headwaters of Taylor Slough. The SFWMD, as local sponsor for the C-111 project has since acquired the Frog Pond and a large portion of the Rocky Glades area.

In 1996, in response to the 1995 committee report, the South Florida Water Management District (SFWMD) contracted a study and analysis of the flow-way/buffer and 5 other options for resolving the 8.5 SMA issue. These options included the Corps' original mitigation plan, the committee's modified flow way/buffer, and full acquisition. The SFWMD formed a review team to monitor the technical aspects of the study, consisting of affected agencies and the Miccosukee Tribe of Indians of Florida (Tribe). The analysis consisted of hydrologic evaluations, water quality analyses, and economic analyses.

In November, 1998, the SFWMD Governing Board unanimously voted to support full acquisition of private properties within the 8.5 SMA as a Locally Preferred Option (LPO) to the Corps' mitigation plan, subject to cost-share arrangements with the Federal Government and Miami-Dade County. A decision of the County Commission to provide partial funding has been deferred pending resolution of the lawsuit brought by the Tribe against the SFWMD alleging that the meetings of the review committee violated the State Sunshine Law.

In response to the SFWMD Governing Board's decision, the Corps and the Department of the Interior are examining the LPO pursuant to the National Environmental Policy Act (NEPA). The review being conducted by the Department to determine its participation in funding the LPO will examine various alternatives to the LPO.

The Tribe and residents of the 8.5 SMA have raised a number of issues regarding acquisition of the area. The first issue is whether the acquisition of the 8.5 SMA will needlessly delay implementation of the Modified Water Deliveries Project. Those who oppose the LPO contend that it is not needed for restoration and that full acquisition will take an inordinate amount of time, particularly given the fact that many residents oppose the buy-out.

The restoration benefits to be derived from the various alternatives will be part of the on-going NEPA analysis. The ability to acquire such lands as are needed will involve issues yet to be determined, including the willingness of residents to sell and number of parcels to be acquired.

The second issue is that residents of the 8.5 SMA have alleged that they were denied due process as the SFWMD reviewed the alternatives and decided to support full acquisition as the LPO. While it would be inappropriate to discuss the issue that is the subject of litigation between the Miccosukee Tribe and the SFWMD, the Department of the Interior fully agrees with the Tribe that these decisions must

provide due process to the fullest extent and will afford ample opportunity for public review and comment during our NEPA process.

Let me state categorically that we do not include a full acquisition alternative in our NEPA analysis lightly. We believe that any solution must be a sustainable solution for all the people of south Florida and meet the goals of the Everglades National Park Protection and Expansion Act of 1989, as amended.

We are implementing the Modified Water Deliveries Project to meet the clear intent of Congress to restore the Shark Slough. We want a solution that will not compromise those efforts. The history of the park includes cases where structures built for park needs were eventually changed to operate for greater flood protection and water supply benefits to the detriment of the Park. Under the Corps mitigation plan, the residents will continue to live with flooded streets and yards, threatening to create similar conflicts between the residents of the 8.5 SMA and the Park. We want to avoid that. We want to find a sustainable solution.

II. Impact of recent wet years on the Water Conservation Areas (WCA)

Mr. Chairman, related to the 8.5 SMA is the issue of impacts in 1998 to the WCAs, particularly those interests to the Tribe from the extraordinary high levels of water in the system in 1998. A significant part of the problem was the inability of the Corps to move water off the Tribal lands and toward the 8.5 SMA without impacting the 8.5 SMA residents. These issues have come together in striking outline over the past 4-5 years. These have been record rainfall years. And they have severely strained the water management system. Most importantly, they have underlined the limited options the current system provides to address flood control needs for an expanding population while at the same time, trying to limit negative impacts on the Everglades.

The 1997 wet season (June-October) was higher than average leaving the system full when the dry season began. These high levels were then followed by a dry season (November to May) that was 50 percent wetter than normal due to the influence of El Niño. Thus, not only did the high levels not dry down, they actually increased, threatening the entire system. On top of this, the 1998 wet season loomed.

At the north end of the system high water in the Kissimmee drainage was straining the capacity of Lake Okeechobee. With no additional storage capacity, water managers were forced to release sufficient amounts of water and sediment into the Caloosahatchee and St. Lucie estuaries. These releases were unrelated to the plight of the sparrow. These releases reinforced need for storage in the north as recommended by the Restudy.

Further down the system, the configuration of water deliveries to Everglades National Park is currently constrained by the system which funnels most water to the park into western Shark Slough. This area is also critical nesting habitat for the endangered Cape Sable Seaside Sparrow. In order to provide for a minimum 45-day nesting period, the flow gates (S-12 structures) to the west were at first operated for minimal discharges, then closed in the spring of 1998. The agencies found ways to route water to the east and south in a manner close to being equal to the S-12 expected flows. Levels in the Water Conservation Areas were high due to high rainfall and discharges from the upper system. This circumstance would not have been different if all the S-12s were fully open.

The emergency action, along with a period of dry weather, was successful in limiting the disturbance to nesting in the western population of the sparrow. There was an approximately 75 percent success rate compared to the previous year. Results would have been much lower without the emergency actions.

Expressing concern over flooding in the conservation areas, some have misinterpreted the flooding as caused solely by the emergency sparrow actions. As a matter of fact, similarly heavy rainfall in 1994-95, when park flood gates were fully open, produced much higher levels in the conservation areas. And during the emergency actions of 1998, amounts of water generally equivalent to the expected flows of the western gates, was moved through other structures to the east. Simply put, the closing of the western S-12 gates was not the principal cause of high water in the conservation areas, but resulted from rainfall and inflows from the north.

The conservation areas are currently contoured with levees to hold and store water. A principal goal of restoration will be to ultimately decompartmentalize these areas to the extent possible. This, together with creating additional water storage capacity, is the best way of avoiding similar high-water conditions.

Finally, with respect to the emergency actions taken in 1998, some have criticized the validity of the science surrounding the sparrow. In response, the interagency State, Federal and Tribal South Florida Ecosystem Restoration Working Group convened a peer review workshop and panel. The panel, consisting of the nation's top experts nominated by the American Ornithological Union, have recently released

their draft report. The draft report supports the scientific credibility of the current sparrow research being relied upon by the U.S. Fish and Wildlife Service and the need for appropriate management actions.

The report recommends similar short-term actions to hold water in Conservation Area 3-A during high-water events, pending completion of the Modified Water Deliveries project. The report further points out the lack of reliable data showing a decline of tree islands in 3-A over the last decade and cites studies showing that increased tree mortality has not occurred over that time period.

All the above characterize the difficulties of preserving a wetland national park in the midst of growing pressures and a fundamentally changed natural system. We need to increasingly look toward the larger system for solutions to problems in its constituent parts.

We are concerned about impacts throughout the system, especially including impacts to Miccosukee Tribal lands in WCA 3-A. We take our trust responsibilities to the Tribe very seriously. However, we note that the perpetual Lease and Settlement Agreement the Tribe holds in WCA 3-A subjects the Tribe's rights in the Leased Area (3-A) to the Corps' authority to raise and lower water levels. We are committed to work with the Tribe to resolve these issues.

In all of this, we have a true and sincere concern for the Tribe and its interests. Our focus has necessarily and, we believe, appropriately been placed on looking after the interests of the entire South Florida Ecosystem, which is inextricably linked to those of the Tribes, the State and all stakeholders in the ecosystem.

III. Conclusion

I appreciate the opportunity to discuss these and other issues related to the restoration of the Everglades. We appreciate the continued support of this Subcommittee on behalf of the National Park System, including one of its most fragile and threatened units, Everglades National Park.

I will be happy to answer any questions.

Mr. HANSEN. Superintendent Ring, do you have an opening statement or anything that you would like to add to what was just stated?

Mr. RING. Mr. Chairman, I am pleased to be here providing what support I can to Mr. Leary as the Department's witness, and I will be pleased to assist with any questions and answers.

Mr. HANSEN. Questions for the panel. The gentleman from Puerto Rico, Mr. Romero-Barceló.

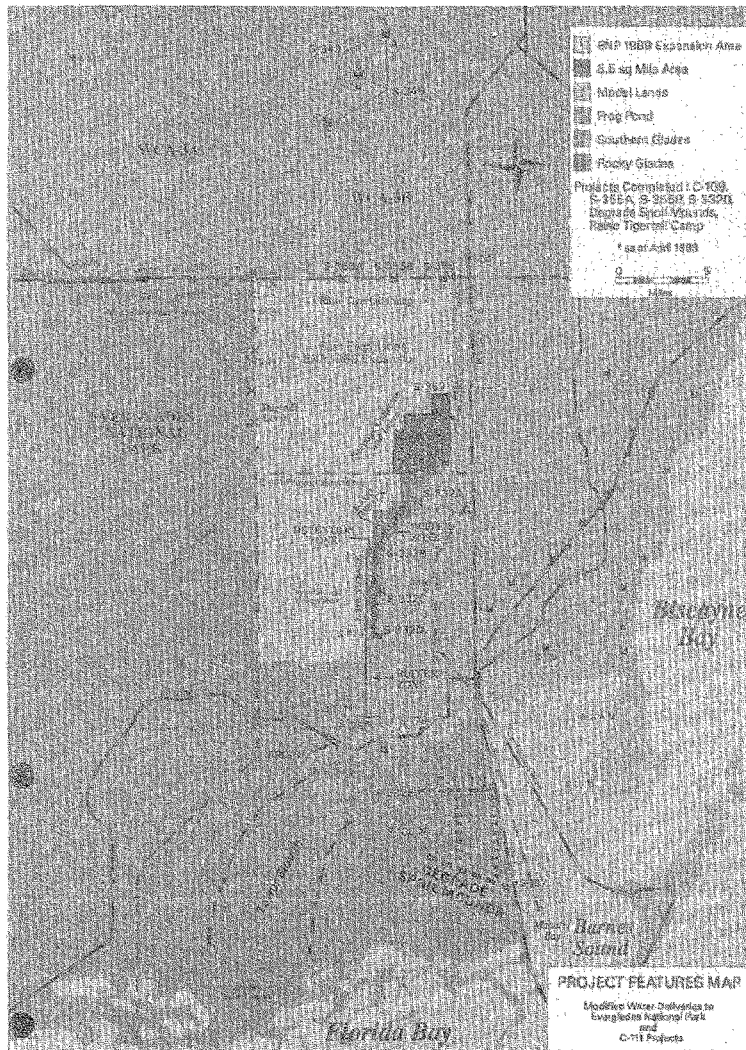
Mr. ROMERO-BARCELÓ. Thank you, Mr. Chairman.

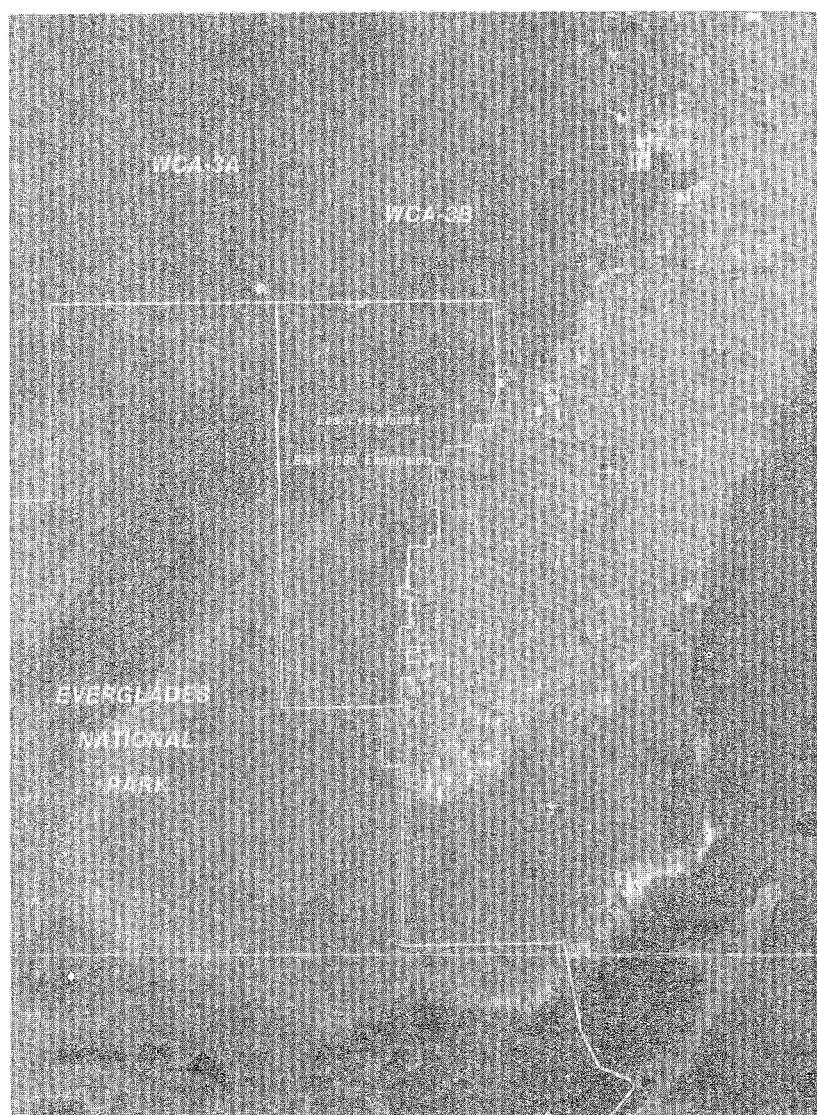
Mr. Leary, the 8-1/2 Square Mile Area, is it prone to flooding?

Mr. LEARY. Yes, sir, it is. The 8-1/2 Square Mile Area is an area composed of about 5,600 acres. We have a chart that I would like to put up that makes it a little bit easier for you to see this. I believe we made copies of this available to the Committee.

Mr. ROMERO-BARCELÓ. Which chart would that be?

[The information follows:]





Mr. LEARY. Members of the Subcommittee, this chart, of which I hope you each have a copy, is a chart which represents the Modified Water Deliveries Project. The 8-1/2 Square Mile Area is the area in orange on the map. It is roughly 5,600 acres. It is west of the levee which, for the most part, runs north and south and separates the natural system from the built environment. It is on the natural system side of that levee. It is a wetland, and so it suffers seasonal wet periods as one would expect.

Mr. ROMERO-BARCELÓ. Would the Corps of Engineers 1992 flood mitigation plan prevent the flooding of the 8-1/2 Square Mile Area?

Mr. LEARY. No, sir, it wouldn't. The project that the Corps of Engineers designed does not provide full flood protection to the residents of the 8-1/2 Square Mile Area. It is designed to mitigate any additional harm that might be imposed on the residents from operation of the modified water delivery schedule. The area is frequently inundated with water. It would receive no additional water stacked on top of that from the operation of the modified water delivery project. But the Corps plan does not provide full flood protection to the residents.

Mr. ROMERO-BARCELÓ. If the 1989 Everglades Protection Act authorized the flood mitigation measures to protect the developed portion of the 8-1/2 square miles from the adverse effects arising from the restored water flows to the Park through the northeast Shark Slough, why has the Department decided not to provide these flood mitigation features?

Mr. LEARY. For a variety of reasons. First of all, as I discussed, after the project was designed, the Governor appointed this committee, which came up with a new consensus approach to deal with the area.

In addition to that, in 1994, Congress suggested to us that perhaps the better solution was to buy the area. Our concern with the original Corps plan was, and remains, that it simply will not work to the best benefit of Everglades National Park.

Mr. ROMERO-BARCELÓ. Why will it not work to the best interest? What will it do that would be adverse to the best interest of the Park?

Mr. LEARY. Mr. Chairman, with your indulgence, it might be easiest for me to answer this question if I could go up to the chart.

Mr. HANSEN. Speak up, if you would, please. Thank you.

Mr. LEARY. Understand, Mr. Chairman, I am not an engineer, but I am going to attempt to answer that question as I understand it. This is the Modified Water Deliveries Project. It consists of several component parts.

This is Water Conservation Area 3A and Water Conservation area 3B here. These levees 67A and C separate these two water conservation areas. Part of the design of the project would be to put gates in here that would allow water to flow from Water Conservation Area 3A to Water Conservation Area 3B.

The whole idea of the Modified Water Deliveries Project is to restore the natural flow through Shark Slough, which roughly runs southwesterly, into Everglades National Park. So you would open the 67A and C levies. You would also make changes to Tamiami Trail to allow the water to flow down and then flow into the Park. Those are the principal features of the project.

The original Corps design for the 8-1/2 Square Mile Area was to put a levee and a seepage canal here essentially around the edge of the 8-1/2 Square Mile Area because water levels would be higher west of the area in the Park than in the 8-1/2 Square Mile Area. The hydrology works such that, when those conditions exist, water seeps under the levee and floods the 8-1/2 Square Mile Area. And so the seepage canal was designed to collect that water and move it back into the system.

There are a couple of ways of doing that. One was to move the water in the L-31 canal, perhaps in the dry season, south down toward Taylor Slough and the Bay. The other was, in wet seasons, when there is a lot of water, to move the water north along the canal and dump it back into the Park up here at Tamiami Trail.

There are several problems with both of those scenarios. In the first place, the Corps plan is designed to move into Northeast Shark Slough for the purpose of restoring the Park; much of the water will seep out of the park and will have to be collected and recycled.

Another is that putting water into the L-31 canal, whether it is moving south or north, raises the level of water in that canal, which can have impacts elsewhere in the system. For example, if the water is too high moving north, it can result in potential damage to the people who live on the east side of the canal since the water level east of the canal would be lower and the water would seep out and impact them.

The same is true with water levels to the south. The water levels moving to the south, if too high, can create potential damage to agriculture and other residents in this southern area east of the canal.

Another problem with the plan is that it moves water northward, when the system is designed to operate to move water from the north through the system.

This has become increasingly more important as our understanding of the system has evolved in the last few years.

The Subcommittee may recall that, in the 1996 Water Resources Development Act, Congress authorized the Corps of Engineers to conduct a comprehensive review of the entire system and issue its report to Congress by July of this year. It is known as the Restudy. In the process of developing the Restudy over the last couple of years, we have all learned a great deal more about how this system functions.

The Modified Water Deliveries Project was originally designed to be a stand-alone project for a very important part of the system. This is pretty much the heart of the system. But in the Restudy we have looked at the entire system. We have learned a lot in those intervening years about what restoration means. We have learned a lot about what the restoration goals should be. And the restoration goals have changed such that we expect even more water now to be moving down into this part of the system than was contemplated in 1992 more water than the Corps plan was originally designed to handle.

So, now we anticipate that we are going to be moving more water down from the north part of the system pursuant to the Restudy. This will allow more water to flow into Everglades National Park

to attempt to restore it closer to what the natural system model tells us historical water levels should be.

So all of these factors make the original Corps design, in our judgment, inadequate; and so we have engaged with our partners in a review of alternatives.

As I indicated, in 1996, there was a unanimous opinion that the best approach was a flow way buffer essentially halfway across the 8.5 Square Mile Area. In 1998, the South Florida Water Management District suggested that the best approach was full acquisition. We are analyzing all of the alternatives in light of the additional information we have gained under the Restudy authorized by the Water Resources Development Act of 1996.

Mr. ROMERO-BARCELÓ. Thank you. My time is up.

Mr. HANSEN. The gentleman from Nevada.

Mr. GIBBONS. Thank you very much, Mr. Chairman. I am interested in this issue but don't understand it completely. But, Mr. Leary, please help me understand your definition of full flood protection.

Mr. LEARY. Much like the situation on the east of the L-31 levee, full flood protection would not only prevent additional waters from going into the area, either through seepage or otherwise, but help remove water in the area such that the area stays as dry as possible.

Mr. GIBBONS. And you don't believe that full flood protection can be achieved with a levee; is that what you are telling us here today?

Mr. LEARY. The original Corps plan would not provide full flood protection. Could a system be designed that would? Yes.

Mr. GIBBONS. Have you undertaken a study of that design?

Mr. LEARY. The Park Service has not, no. The alternatives that have been studied have included efforts to provide full flood protection to all or a portion of the area.

One approach that was studied was to put a wall essentially down into the ground that would attempt to block the seepage from occurring, and I think most parties determined that that was not a feasible approach. In fact, that approach was suggested in 1992 down in the Frog Pond area.

The pink area on the map is the Frog Pond area. This curtain wall approach was suggested and rejected by the Corps of Engineers. I believe Colonel Terry Rice, one of your witnesses today, was district engineer at the time, as I understand it, the flow way buffer concept was agreed upon by Governor Chiles' committee in 1995 and 1996 might provide full flood protection to the eastern portion of the 8-1/2 Square Mile Area.

Mr. GIBBONS. How much is the eastern portion in terms of area?

Mr. LEARY. I don't know the exact acreage of that proposal?

Mr. RING. Sir, the Governor's committee report that examined that alternative recommended a conceptual plan which really didn't pin down the amount of land required for the flow way buffer and the amount that would ultimately be provided flood protection. I believe the South Florida Water Management Districts' engineers report did, and the alternative I think was roughly half. Half of the 8-1/2 Square Mile area would be acquired for the flow way buffer, and roughly half would be provided protection.

Mr. GIBBONS. Well, let me ask this question. Obviously, flood protection is something that is normally overseen, normally discussed and engineered through the Corps of Engineers, rather than the Department of Interior or the Park Service. How come you guys have ended up getting involved in the design plan of the flood program here?

Mr. LEARY. The Corps of Engineers is responsible for the design of the project.

The way Congress set this up in 1989 is that the project is funded through the budget of the National Park Service. I believe the rationale for that was that this project was being designed, and Congress directed that it be designed, to benefit Everglades National Park. Because of that, of course, Everglades National Park is very interested in knowing whether the project that the Corps implements—

Mr. GIBBONS. Do you have veto authority over what the Corps of Engineers proposes?

Mr. LEARY. No, sir. The only issue there would be a question of funding by Congress of the project.

Mr. GIBBONS. Has the Interior Department provided funds to acquire either the Rocky Glades or the Frog Pond area?

Mr. LEARY. No, sir. To date, no. Those have been acquired by the South Florida Water Management District.

Mr. GIBBONS. Mr. Chairman, my time is, I can see, up. I will yield to others who may have questions.

Mr. HANSEN. The gentlelady from the Virgin Islands.

Mrs. CHRISTIANSEN. Thank you, Mr. Chairman. Just some clarification on some of the issues.

The Frog Pond alternative, would that also require land acquisition or relocation of the Tribe, the one that you last described?

Mr. LEARY. The Frog Pond is part of a different project. The Frog Pond is part of the C-111 project, which is south of the 8-1/2 Square Mile Area.

Mrs. CHRISTIANSEN. It wasn't an alternative way of addressing the same situation, the same problem?

Mr. LEARY. The C-111 project is more designed to help restore natural flows through another Slough called Taylor Slough, which is to the south. The Frog Pond area essentially cuts in half, strides across the Taylor Slough which provides waters at the south end of Florida into the south end of the Park and Florida Bay.

Mrs. CHRISTIANSEN. I have—I went to some of the hearings with the Miccosukee Tribe last year, and it is a bit disturbing to me to hear that we are back again talking about relocating members of the Tribe. What I would like to know is, isn't there any alternative plans that could be developed that would accommodate the Miccosukee Tribe and not have them have to relocate from this area? Have all of the possible ways of restoring the water to the Everglades been evaluated?

Mr. LEARY. The 8-1/2 Square Mile Area does not directly impact the Miccosukee Tribe. Let me show you on the map. This is the 8-1/2 Square Mile Area. The Miccosukee Tribe reservation—reserved area is over here. The Tribe can tell you far better than me, but my understanding of the concerns of the Miccosukee Tribe are largely this: The Miccosukee Tribe is interested in getting this

water to flow, as the Modified Water Deliveries Project is designed, eastward in this direction and away from their lands and then southward into Shark Slough.

The Tribe is concerned that, until water can move eastward, water will stack north of them and potentially damage their properties here. So they are eager to see the water move over toward Shark Slough. We are eager for the water to move over here as well because, again, we want to restore flows through Shark Slough.

What the Tribe is suggesting, I believe, is that we need to deal with the 8-1/2 Square Mile Area the quickest way possible in order to move the water so it does not impact their lands.

Mrs. CHRISTIANSEN. Well, I will reserve further questions for the Tribe when they come to the panel.

Mr. HANSEN. Thank you.

The gentleman from New Mexico, Mr. Udall.

Mr. UDALL OF NEW MEXICO. Thank you, Mr. Chairman.

Could you just further explain the issue there with the—that you were just explaining with Representative Christiansen on the 8-1/2 mile area? That is an area—what is the status of that and how does that relate to their claim and to the fact that they don't want the water on their land?

I understand about the water moving out on the—you have the water moving. I assume that is set up so you want water moving more to the east—

Mr. LEARY. That is correct.

Mr. UDALL OF NEW MEXICO. [continuing] and around their property. And in order to do that you have to—is it purchase this 8-1/2 mile area or what?

Mr. LEARY. That is the penultimate issue. The situation we find ourselves in is we all want to move the water over to the east. The issue is, can we do it without doing harm to the 8-1/2 Square Mile Area? So the decision is how to address that area.

This area to the immediate west of the 8-1/2 Square Mile Area here we have a similar problem. This is the Park Expansion Area we are engaged in acquiring so that we can move water through it. But, in addition to that, we have to deal with the 8-1/2 Square Mile Area one way or the other in order to move the water.

Mr. UDALL OF NEW MEXICO. Mr. Leary, it is your recommendation or the Park Service's recommendation that there be a purchase of the 8-1/2 mile area?

Mr. LEARY. We have looked at that alternative. The Park Service has indicated that it believes that it is the best alternative to provide protection to the Park. But that is the subject of our NEPA analysis before we make a final determination.

Mr. UDALL OF NEW MEXICO. Okay. Thank you.

Mr. LEARY. Mr. Chairman.

Mr. UDALL OF NEW MEXICO. Go ahead. Go ahead.

Mr. LEARY. I wanted to correct one answer that I gave to Mr. Gibbons. The Department of Interior has acquired some of the property in the Rocky Glades that are within the boundaries of Everglades National Park.

Mr. UDALL OF NEW MEXICO. Is it the opinion of the Park Service that the flow that is planned under the current system will restore the ecosystem of the Everglades? And how quickly will it do that?

Mr. LEARY. I am sorry. Are you talking about the original Corps plan?

Mr. UDALL OF NEW MEXICO. No, the Corps plan we are functioning under right now.

Mr. LEARY. We believe that the Restudy plan the Corps is developing and will be submitting to Congress in July, when implemented with the Modified Water Deliveries Project and with the C-111 Project, will meet, or provides us with the means to meet, our overall restoration goals for the ecosystem.

Mr. UDALL OF NEW MEXICO. Thank you very much, Mr. Chairman.

Mr. HANSEN. Thank you, Mr. Udall.

I ask unanimous consent that the letter from Lincoln Diaz-Balart be included in the record.

Hearing no objection, so ordered.

[The information follows:]

LETTER TO MR. HANSEN FROM HON. LINCOLN DIAZ-BALART, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF FLORIDA

Dear Mr. Chairman:

I commend the Subcommittee on National Parks and Public Lands for reviewing the delays in the implementation of the 1989 Act providing for Modified Water Delivery to the Everglades. It is essential that all agencies involved proceed expeditiously to implement the program contemplated by the 1989 Act, so that the proper flow of water to the south can be restored, the damage to the State and Tribal lands to the north from flooding can be reduced, and the constitutional property rights of adjoining homeowners are protected.

Congressman Dante Fascell's bipartisan 1989 Act is sound. It represents a Congressional commitment to the affected parties that should be honored. The Act, including the protection of the 8.5 square mile area, was based on the recommendations of two Governor's Commissions (both a Republican and a Democrat Governor). Since passage of the Act and the 1994 Amendment, another Governor's Commission (a Democrat Governor) has again recommended that the 8.5 square mile area be protected. Further delay, including delay caused by the ill-founded effort to condemn the homes of the residents of the 8.5 square mile area, are bad both for the environment and for the affected parties. As part of the 8.5 square mile area falls within the district I represent, I respectfully request that the Subcommittee disavow any agency efforts to condemn homes in the 8.5 square mile area.

The environment to the north is suffering because water flow is blocked, flooding the Florida-owned and Miccosukee Tribe-owned portions of the historic Everglades. Natural resources of the State and the Tribe are being lost. Members of the Tribe and citizens of Florida have a right to expect that agencies will carry out the 1989 Act without further delay.

Homeowners in the area that were promised protection are instead being threatened with condemnation. Their property is under siege even though the 1989 Act directed the Army Corps of Engineers to protect this area and the Report of the 1994 Amendment specifically disavowed condemnation.

I respectfully urge the Subcommittee to use its good offices to expedite the Modified Water Delivery Project, including the protection project for the 8.5 square mile area. Our commitment to the Everglades environment, to the Miccosukee Tribe, and to our system of constitutional property rights, requires nothing less.

Mr. HANSEN. Gentlemen, I want to ask both of you a few questions. I appreciate it; and, in the essence of time, I ask that you be as brief as you possibly could.

Mr. Leary, the 1994 expansion amendment made it clear that not more than 25 percent of the funding to acquire the 8-1/2 Square Mile Area can be provided by the Federal Government. Where does

the Interior Department get the additional authority to chip in additional an 25 percent, as stated by Secretary Babbitt?

Mr. LEARY. What Secretary Babbitt was discussing in his letter was a response to the question, if the South Florida Water Management District were to adopt a locally preferred option, would we cost share on that project. Secretary Babbitt was saying to the South Florida Water Management District that, consistent with the overall 50/50 match requirement for the entire ecosystem restoration effort which Congress had enacted in 1996, we would look at this as part of the overall effort. The funds we have been provided from the Congress in the intervening years have provided us with the authority to acquire lands for ecosystem restoration based on a 50/50 cost share.

Mr. HANSEN. In other words, you are referring to the 1996 farm bill; is that right?

Mr. LEARY. The 1996 farm bill is one of them. But our appropriations for the last 2 years from the Land and Water Conservation Funds have provided the same cost share requirement.

Mr. HANSEN. Do you believe the farm bill supersedes the Act of 1994?

Mr. LEARY. I am not suggesting that, sir. I believe that we would need to seek and obtain a clarification from Congress as to whether the 1994 restriction was or was not limited to the funds that were being discussed in that Act.

Mr. HANSEN. But, as you know, you cannot authorize under an appropriation bill; and whether or not it was appropriated as you just stated, it still has to be authorized.

Mr. LEARY. We would be seeking guidance.

Mr. HANSEN. I can't figure out where the authorization is, Mr. Leary.

Mr. LEARY. We would be seeking guidance from Congress in that regard.

Mr. HANSEN. Do you have a solicitor's opinion on that?

Mr. LEARY. I do not, sir. I will be happy to request one if you would like.

Mr. HANSEN. Do you believe the 1996 farm bill creates any condemnation authority?

Mr. LEARY. I don't believe we have examined that question.

Mr. HANSEN. Let me ask this. Do you feel an appropriation will create an imminent domain authority?

Mr. LEARY. Likewise, sir, I don't know the answer to that question.

Mr. HANSEN. Mr. Leary, has the Interior Department provided any funds for the acquisition of the Rocky Glades area or the Frog Pond?

Mr. LEARY. The Department of the Interior has—yes. We have about \$14 million available for contribution to those areas. We entered into an agreement with the South Florida Water Management District for those funds. The South Florida Water Management District has not requested those funds.

Mr. HANSEN. So you really haven't expended any funds yet.

Mr. LEARY. Not for those two projects, no, sir, other than the acquisitions within the Park in the Rocky Glades area.

Mr. HANSEN. Why?

Mr. LEARY. Because we have been in disagreement with the South Florida Water Management District over the terms that were imposed upon us by Congress.

In authorizing those funds, Congress stated that the lands acquired with those funds were to be managed in perpetuity for the benefit of Everglades National Park and Florida Bay and the South Florida Water Management District, and we have to date been unable to agree on the means by which the Department of the Interior and Everglades National Park can assure the Congress that the directive will be met.

Mr. HANSEN. In 1992, the Army Corps of Engineers issued a general design memorandum with the completed EIS which essentially gave the green light to start construction of the flood protection to the 8-1/2. At that point, a full 2 years from the 1994 amendment, why didn't the Interior fund the Corps to start construction?

Mr. LEARY. I need to look at the 1992 appropriations figures, but we did request over the years and received funding for construction of those features as requested by the Corps of Engineers. We have met those requests. We have constructed, under the Modified Water Deliveries Project, a number of the features of that project but not the feature involving the 8-1/2 Square Mile Area.

Mr. HANSEN. September 23rd, Assistant Secretary Berry wrote to Congress asking for a declaration of taking authority. What is the status of that request?

Mr. LEARY. That request has been approved by the committees, and we are undertaking to implement that authority. We believe that that authority will enable us to speed up the completion of the acquisition of the Park expansion area by a number of years, and we are very grateful to have received that authorization.

Mr. HANSEN. I am always curious, as I try to think back on this, why this Committee wasn't asked, especially since we are referenced in the first page of that.

Mr. LEARY. Mr. Chairman, the reason that this Committee did not receive that request is because the Park Service has been operating for over 21 years on what we understand is the policy of this Committee that we do not need to request specific authority from this Committee, but that we provide the Committee with quarterly reports. That policy is expressed in a letter we received over 22 years ago from this Committee. If the Committee, under your leadership, Mr. Chairman, has changed that policy, we were unaware of it, and we apologize.

Mr. HANSEN. Let me ask this, if I may. In your testimony, you state that there is clear evidence of the harm to Florida Bay if the Department of Interior does not acquire the 8-1/2 Square Mile Area. Would you mind quickly telling us what that clear evidence is?

Mr. LEARY. The clear evidence that I was talking about, sir, was evidence that the State and the Federal Government determined back in 1993 that Florida Bay was continuing to experience great harm, and that caused the State and the Department of the Interior to come to Congress and ask for greater authority to move forward in ways that would be protective of the Bay.

Mr. HANSEN. Also in your testimony, you seem to criticize the Chiles Commission report. Did the Dade County Commission en-

dorse it and the south Florida water folks endorse that? What was the conflict between you folks?

Mr. LEARY. Sir, you misunderstood me. I was not at all criticizing the Chiles Committee report. Indeed, what I was suggesting was that we had unanimity of the parties in interest as a result of that report and were prepared to move forward on the flow way buffer. But the district engineer at the time, Terry Rice, refused to sign the agreement, and so the agreement fell apart.

Mr. HANSEN. The 8-1/2 bothers me. Do we have any willing sellers in that area?

Mr. LEARY. The South Florida Water Management District believes that there are many willing sellers in the area.

Mr. HANSEN. How many folks have you got in that area?

Mr. LEARY. I believe there are about 1,200 residents is what I understand, about 365 structures.

Mr. HANSEN. Go back to your term. What percent would be willing to sell their property of that? Have you got any wild guess on that at all, Mr. Leary?

Mr. LEARY. I do not. I have been told anecdotally from the South Florida Water Management District that the number of willing sellers is in the 300-plus range, but I do not know of my own knowledge. We certainly have taken no poll out there.

Mr. HANSEN. Thank you. I appreciate your comments.

The gentleman from Puerto Rico.

Mr. ROMERO-BARCELÓ. Thank you, Mr. Chairman. I would—Mr. Leary, the 1992 flood mitigation proposal, is it still carrying the hydrological conditions we need? And, also, does it leave intact all of the residences and the property in the 8-1/2 Square Mile Area?

Mr. LEARY. The original Corps project would require the acquisition of some lands necessary for construction of the levee and the seepage canal, but it would not require, obviously, as much acquisition as would the other alternatives.

Mr. ROMERO-BARCELÓ. And then what would be the impact on that land of the Governor Chiles' study committee?

Mr. LEARY. That proposal would impact roughly half of the area. As Mr. Ring suggested, it was more of a conceptual plan, as opposed to an exact design. But, as we understood it, it would require the acquisition of roughly the western half of the 8-1/2 Square Mile Area.

Mr. ROMERO-BARCELÓ. Finally, Mr. Leary, your critics say that—the critics of the Department of Interior decision say that the reason that they want to acquire the—the Park Service wants to acquire the 8-1/2 is to establish a buffer, which will be against existing law, to acquire land for a buffer. How would you respond to that criticism?

Mr. LEARY. Well, I believe what they are referring to is report language in the 1994 Act that talked about how this authority is not to create a Federal buffer. And no one is suggesting the creation of a Federal buffer. If the Federal Government did indeed hypothetically down the road decide this was the approach to take, it would provide grant funds to the South Florida Water Management District, and the South Florida Water Management District would buy these properties.

And you understand that part of the rationale here and justification for interest in the full acquisition is not just limited to the issue of the flow of water. That is but one part of the issue of restoration. The rest is this. One of the things that the Everglades ecosystem lacks is adequate short period wetlands that help serve as an ecological buffer between the built environment and the Everglades. And that is what the 8-1/2 Square Mile Area is, short-term wetlands.

Mr. ROMERO-BARCELÓ. Thank you, Mr. Leary.

With that, Mr. Chairman, I finally would like to ask unanimous consent to submit a copy of a letter signed by Senators Graham and Mack to the Mayor of Miami-Dade County, Alex Penelas, dated February 24, 1999, supporting the acquisition of the 8-1/2 Square Mile Area.

Mr. HANSEN. Without objection, so ordered.

[The information follows:]

LETTER TO THE HON. ALEX PENELAS, MAYOR, MIAMI-DADE COUNTY, FLORIDA FROM
HON. BOB GRAHAM AND HON. CONNIE MACK

Dear Mayor Penelas:

We want to share our views with you as deliberations continue on the very difficult issues surrounding the modified water delivery project and its impact on the 8.5 Square Mile Area. A decision to acquire this area from willing sellers marks an important step in the process of rehydrating Everglades National Park and restoring Florida Bay.

This is a very difficult and emotional issue, but this is a situation that will continue to linger until the entire area is acquired or provided with flood protection. Full acquisition is not only the best alternative for the Everglades; it is also the best alternative for all Miami-Dade County taxpayers.

For these reasons, we support the decision made last year by the Governing Board of the South Florida Water Management District to fully acquire the 8.5 Square Mile Area and urge you to ratify the decision when it comes before the Miami-Dade Commission. Finally, we pledge our strong commitment to ensure that the Federal Government is an active financial partner with the South Florida Water Management District and Miami-Dade County in order to ensure that the residents of the 8.5 Square Mile Area are fairly, and fully, compensated.

Mr. HANSEN. Let me go back to some of these things we are talking about.

I still can't quite fathom this 8-1/2. Go back to the law; and, as the gentleman from Puerto Rico just stated, the Committee knows this Act does not authorize the use of Federal imminent domain authority, nor does it create a Federal buffer zone outside the Park.

Now, I guess you could give it over to the water district, but then, if I understand this right, being the past speaker of my State, and I don't know if these laws are the same. I have no way of knowing. Then they would have to have this Florida State legislature give them the right of imminent domain.

And if they can't do that, you guys are dead in the water. You don't have any authority at all to take this 8-1/2. If you have got a willing seller, yeah, but my staff tells me here that is the infinitesimal amount and that some of those folks, when they were interviewed, felt coerced that they were going to get imminent domain. I don't know if that is true or not, but I know that if people think they are going to lose something, they probably would say that.

So here we have got this agriculture area. I still don't understand the hydrology or the science behind why that is necessary.

Maybe that is just my limited knowledge of this, but I don't think you have any right at all to take that 8-1/2 square miles.

Mr. LEARY. Mr. Chairman, we haven't come to the question of the need for imminent domain authority in the 8-1/2 Square Mile Area because, again, the issue remains unsettled as to what project will ultimately be implemented. As Mr. Romero-Barceló suggested, there are a number of people who support full acquisition of the area. Members of the Florida delegation, including Senators Graham and Mack, support full acquisition. There are a number of people who do not, but the point is that it is speculative at this point to determine the need for imminent domain authority in the area.

Certainly, there are a number of entities which might have imminent domain authority or seek it if it is needed. That would include the Department of the Interior. It would also include the South Florida water management district, the State of Florida, Dade County, and the Corps of Engineers; any number of entities.

Mr. HANSEN. Mr. Leary, regardless, if there are a number of people who support it isn't the issue, as I see it; and also as I look it, it is not the issue of whether or not the Department of Interior or others eventually would have imminent domain when they have a great big roadblock called Federal law standing in front of them.

Someone either has to change the law, or you have got to get it from another source; and until you can get it, you have got to get rid of this 1994 Act because we look at—the 1996 Farm Act doesn't even come close to helping you out in any of those areas. So you have got a heck of a roadblock staring you in the face, in my mind, if that is what you want to do and your scientists feel that.

I don't have a dog in this fight, but still, on the other hand, this has got so many problems hanging on it. I would be very concerned if I was in the shoes of either you or Mr. Ring on how you really want to go about doing this. I think you're setting yourself up for all kinds of litigation. We will probably all be pushing up daisies by the time this thing is all resolved.

Mr. Ring, the clear intent of the Park Expansion Act of 1989 was to acquire this eastern expansion area by 1994. What has taken so long for the Park Service to acquire these lands, the eastern expansion area?

Mr. ROMERO-BARCELÓ. Mr. Chairman, can I contribute something to the gentleman? I don't think the Department of Interior has any authority at all over the Park Service to acquire any lands. They can only contribute, and it is Florida South Water Management that can do the acquisition, and I think the only thing appropriate to contribute—I think that—

Mr. HANSEN. I appreciate the comments.

Mr. LEARY. Mr. Chairman, might I respond to that question?

Mr. HANSEN. Sure, Mr. Leary.

Mr. LEARY. As I understand the question, you are talking about the park expansion, the additional areas to the park itself. Congress did indeed authorize us to acquire those acres. We received about 40,000 acres from the State of Florida and have been engaged in acquiring those lands since, with funds which have been made available to us by Congress for those acquisitions.

What we have encountered is a number of difficulties in acquiring those properties from this simple fact: This is property that is largely under water most of the time. This is the classic example of swamplands that people bought decades ago. It is land that is largely undevelopable, but is in small tracts, Mr. Chairman. Many of these parcels are quite small.

It takes just as much work to acquire the small tracts as it does large ones. It is difficult to get clear title on some of these properties because they have such little value that owners have even not gone through probate on some of these properties. It is an extremely difficult process.

We have acquired those that are the easiest to acquire, and now we have run into the slow difficulty of going through individual condemnation actions, trying to clear title. That is why we sought the declaration of take authority, and that is why we believe, with it, we can clear this quickly.

Mr. HANSEN. Mr. Ring, essentially the park was expanded in 1989 for the restoration of the Everglades ecosystem and the natural flow of water. Part of this entailed the acquisition of some property owned by the Hernandez family, the Carter family and the Hect family. Are Park Service personnel living in the homes that are acquired on this property?

Mr. RING. There are Park Service rangers living in some of the homes, of the few homes that were acquired inside that area of the east Everglades expansion area.

Mr. HANSEN. How long is that going to go on?

Mr. RING. That was initiated as an interim measure pending the completion of land acquisition and the revision of the park's general management plan to determine how we will be managing the area. It creates a presence out there while the area has been partially acquired, not completely acquired, and is not under our management and control, in order to prevent things like dumping.

There was an automatic weapons shooting gallery out there, quite a number of problems in the area that we were trying to stop, so we are trying to create a presence to provide protection to the Federal properties pending the completion of acquisition and the completion of our management plan.

Mr. HANSEN. Okay. You mention "interim." So this was essential for the natural restoration of the Everglades. Employees are living there. You fully intend they will be gone, you will destroy these homes, all that type of thing; is that right?

Mr. RING. We are in an advanced stage now of land acquisition, we have about 70,000 acres acquired. Assuming the approval of the fiscal 2000 budget request, we will have the funds to complete the acquisition. This fall, we will be starting the planning process to amend the park's general management plan, and we will be examining with the public and all of our partners what are the appropriate actions and activities and facilities and management presence that we need out there.

The basis for any continued presence on the part of any of our rangers out there in homes will be discussed and determined as a result of that planning. It will not be continued as a result of the interim decisions we make.

Mr. HANSEN. You made a statement describing, quote, a sustainable solution or sustainable approach to the 8-1/2 Square Mile Area. Give me your definition of sustainable. What do you mean by that?

Mr. RING. Sir, Mr. Chairman, a number of the agencies, ourselves included, have been trying to address the issue of sustainability in south Florida as part of an overall ecosystem approach towards restoration. Sustainability means a decision that will not create problems elsewhere. It will fit into a context of a comprehensive solution and it will last.

Mr. HANSEN. Mr. Ring, do you believe that there are any people down there being threatened or coerced or intimidated by the water management district into selling any of their property?

Mr. RING. I have absolutely no knowledge of that, sir.

Mr. HANSEN. Going back to the gentleman from Puerto Rico, do you believe the acquisition of the 8-1/2 would create a buffer zone for the park?

Mr. RING. Mr. Chairman, I am sorry?

Mr. HANSEN. Do you believe that the acquisition of the 8-1/2 would create a buffer zone for the park?

Mr. RING. I believe that, and I have indicated that, the proposal of the water management district adopted and recommended to the Corps would indeed solve the water management issues associated with the completion of the Modified Water Delivery Project in that area in a sustainable manner. And, I believe it would also add critical short hydroperiod wetlands to the overall ecosystem, and that would provide significant ecological benefits.

Mr. HANSEN. Thank you. Let me ask you one more.

There are other properties acquired as directed by the 1994 amendments for Everglades restoration, particularly in the area known as the Frog Pond, when in private hands which is used extensively for agriculture. Since the Park Service was in 1994 arguing that these lands were also essential for the restoration, what is the current use of these lands?

Mr. RING. Mr. Chairman, my understanding is that the South Florida Water Management District acquired the Frog Pond as a result of trying to acquire the land necessary for the C-111 project of the Corps of Engineers. They tried to acquire the western three sections of the Frog Pond and, in negotiations with the owner, ultimately acquired the entire area.

They leased back the land for seasonal agriculture on a year-to-year basis for two reasons, as I understand it, but I would urge you to contact the South Florida Water Management District directly on this.

One was to soften the impact on the agricultural economy in south Dade, and the other was to prevent the intrusion of invasive exotics which would likely come into that land if it were left fallow pending the completion of the actual project features associated with the C-111 project that were scheduled to occur over a 5-to-7-year period.

Mr. HANSEN. Thank you, Mr. Ring.

Member of the Committees, Mr. Sherwood, you weren't here earlier. Do you have any questions?

Mr. SHERWOOD. Thank you, Mr. Chairman.

And I am asking this a little tentatively, coming in as late as I have, and I have been to the Glades and spent time in that area, and I think I understand the theory of—that it is a sheet water flow going south out of the big lake all the way to the bottom of the peninsula, and that that has been interrupted and that that is the problem.

But what I don't understand about this 8-1/2 acres of land, I have information that that is at a higher elevation, and it doesn't participate in the sheet water flow. So why is that important that you buy that 8-1/2 acres of ground?

Mr. LEARY. For a couple of reasons, the justification would go as follows. For one thing, the Shark Slough area immediately to the west of the 8-1/2 Square Mile Area, which is in orange on the map there, is the lowest portion of Shark Slough. The 8-1/2 Square Mile Area is at the edge, and the elevation does indeed go up.

We are not talking about severe elevation here. It is——

Mr. SHERWOOD. I understand.

Mr. LEARY. But the western portions of the 8-1/2 Square Mile Area are indeed as low as the areas immediately to the west in the Park expansion area. The area becomes flooded, as water levels increase, whether it is during heavy rainfall events or otherwise. In Florida there are two seasons, a wet and a dry season. During very high water rain events, that level of water can cause flooding throughout the entire 8-1/2 Square Mile Area.

The—but the other rationale for acquisition of the 8-1/2 Square Mile Area is the one that Superintendent Ring just gave, which is that the Everglades does not—suffers from a lack of short season hydroperiod wetlands, and that is an ecological benefit that this area could provide to the Everglades system.

Mr. SHERWOOD. I didn't understand that.

Mr. RING. Sir, in 1993 we gathered as many scientists as we had available to try and critique the problems of the Everglades' ecosystem. They provided a report which provided the basis for the Corps proceeding into their overall hydrologic restoration effort. They determined that the fundamental characteristics of the predrainage system that needed to be restored were a hydrologic regime which featured dynamic and sheet flow, and large spatial scale.

Fifty percent of the original Everglades has been lost. So the recovery of some of that spatial scale was critical, and what they referred to as "habitat heterogeneity"—that means a mixture of different habitats—and what has been lost on the Everglades, particularly on the eastern side, has been the edges, the areas that aren't always flooded.

The deep, central sloughs often have water in them all year round. Wading birds, for instance, can forage there during the dry season when the water is low in the deep, central sloughs, but as those fill up in the wet season, they must have shallow wetland areas to forage to survive. They move as that habitat is available to them.

What has been lost on the edges are those short hydroperiod wetlands, the wetlands that are inundated with water only portions of the years. Those portions of the year are critical to providing sup-

port and habitat for populations of wading birds, particularly when the central sloughs are filled with water during the wet season.

So, there is a critical loss of function to the Everglades. While 50 percent of the spatial scale has been reduced, approximately 90 percent of the historic levels of wading birds have disappeared, and that is as a result of the loss of some of those critical edge habitats.

Mr. SHERWOOD. So, if you bought that edge habitat, what would you do with it?

Mr. RING. I think the South Florida Water Management District has proposed the acquisition of that area as a way to provide a sustainable solution to the restoration of flows into Shark Slough, and we see benefits from that proposal associated with the additional habitat that it would create. The South Florida Water Management District would be the land owner and the acquiring agency and would manage it the way it manages many areas throughout the Everglades system for both water management purposes and for natural habitat.

Mr. SHERWOOD. I see we have run out of time. I developed that a little more, but maybe it is—

Mr. HANSEN. The gentleman from Nevada, Mr. Gibbons.

Mr. GIBBONS. Thank you very much, Mr. Chairman. I have just a couple of brief questions.

First, Mr. Ring, given the enormity of the size of the Everglades National Park, is it your testimony today that this 8-1/2 Square Mile Area is absolutely essential to the restoration of the entire Everglades system?

Mr. RING. The restoration of the Everglades system is a vast and very, very complicated problem. It has a number of difficult issues associated with it. Finding a sustainable solution in the 8-1/2 Square Mile Area that is consistent with the long-term restoration goals—not simply the hydrologic goals, but the overall ecological restoration goals as well is essential to achieve.

Mr. GIBBONS. Let me ask, once you achieve acquisition of this 8-1/2 Square Mile Area to do what you want to do, which is eliminate all the people off of it so you can freely flood it when you need to, what prevents the water flow from exceeding the limitations of the 8-1/2 Square Mile Area into other areas?

Mr. RING. Sir, that is a question that is probably more properly directed to the South Florida Water Management District and the Corps of Engineers, but there is a canal and levee system, the eastern protective levee, that runs down along the edge of the Everglades and separates it from the built system. The Corps of Engineers and the South Florida Water Management District have designed and are attempting to maintain a design that allows for the restoration of historic hydrologic conditions in the Everglades and the provision of authorized flood protection east of the levee.

Mr. GIBBONS. Does that levee system work?

Mr. RING. Sir, the Modified Water Delivery Project and the C-111 project have been authorized, approved and are being undertaken, as well as the restudy which calls for a replumbing of the entire system. I think that is a fairly good indication that the system, as it exists in south Florida right now, doesn't work, doesn't work for a variety of purposes in many areas.

Mr. GIBBONS. So you are telling us today that the levee that is there on the eastern shore isn't going to work and it will conclude to flood. There will be seepage outside it once you allow for flooding in the 8-1/2 Square Mile Area, as well?

Mr. RING. No, sir, I'm not saying that.

Mr. GIBBONS. Well, if that is the case, why wouldn't the levee that you want to put on the western side of the 8-1/2 Square Mile Area keep water out and seepage out of the 8-1/2 Square Mile Area?

Mr. RING. Sir, I am trying to indicate that the Corps of Engineers and the South Florida Water Management District, the local sponsor, are trying to come to grips with a number of different engineering issues to improve the system that is there. There are problems that are being addressed through these projects and through the restudy.

Your question about the original seepage canal system on the western side of the 8-1/2 Square Mile Area is one that Mr. Leary spoke to you about before, and that is, it does not make conditions any better in the 8-1/2 mile area, which is an area that already floods. It simply keeps that area from getting worse as some additional water is introduced into the east Everglades as part of the Modified Water Delivery Project.

Mr. GIBBONS. And your introduction of the additional water into the east Everglades, is that changing the flow of water through or around the reservation that we talked about earlier, that is northwest of this area?

Mr. RING. Are you referring to the Modified Water Delivery Project, sir?

Mr. GIBBONS. Well, yes.

Mr. RING. Okay.

Mr. GIBBONS. Because you want to now take it to the east and then southwest, come back through—out Shark River Slough.

Mr. RING. Right. It would move the flows that are currently being funneled to the west through Water Conservation Area 3A and being delivered into Everglades National Park through a series of structures called the S-12 structures. On the western side of Shark Slough, it would redistribute those flows to the east to be consistent with the way they flowed historically.

Historically, about two-thirds of the water that flowed across Tamiami Trail into Everglades National Park through Shark Slough came east of the L-67 extension levee, which is the old boundary of the park. It came through the east Everglades addition.

Today, something on the order of 75 percent of the flows that come into the park come to the west of that extension levee and significantly inundate the western parts of Shark Slough, much higher than they ever were inundated historically, and that is area where the Miccosukee Reserve area is. It also causes funneling and stacking up of water in Water Conservation Area 3A immediately to the north of that location.

There are times during high water conditions when water can be 3 to 4 feet higher immediately to the west of the L-67 levee than it would be on the same day immediately to the east of that levee.

Mr. GIBBONS. Thank you, Mr. Chairman.

Mr. HANSEN. The gentleman from Tennessee, Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman.

Is it true what I have just been told, that we have spent about \$1.3 billion on this Everglades restoration project so far?

Mr. LEARY. The figure we have seen is about \$1.2 billion. That figure is largely composed of appropriations over the years for several ongoing projects, such as the restoration of the Kissimmee River. You may recall that years ago the river was straightened, and we are in the process of taking it back to its original meander.

The figure also includes expenditures for the Modified Water Delivery Project and for the C-111 project, C-51 project, but—

Mr. DUNCAN. Is it also true—is it true that it is going to—that the conservative estimates are that the total cost for this is going to be about \$11 billion over the next 20 years?

Mr. LEARY. The \$1.2 billion figure also includes normal O&M costs associated with managing the parks and the refuges and the sanctuaries and that sort of thing that—two-thirds of that are normal operations. Most of the new funds in that figure are for land acquisition.

Mr. DUNCAN. I think you are going to have a real problem in that, you know, the entire budget of the National Park Service right now is about \$1.3 billion or something like that, and then you talk about all this money as if it is just all there and, you know, I just don't believe it is going to be there.

And then I am told that this—the acquisition of this 8-1/2 square miles is going to cost about 6—is it \$60 million; is that what you have estimated?

Mr. LEARY. I believe the estimate for full acquisition is closer to \$112 million, I believe.

Mr. DUNCAN. A hundred and twelve? Does that count the litigation costs and that type of thing? Is that in there, too?

Mr. LEARY. I don't believe it is.

Mr. DUNCAN. Well, you know, this is just—I mean, the Great Smoky Mountains National Park, its entire budget is about \$11 million a year, and that is the most heavily visited national park in the nation. This is just sounding crazier and crazier the more we get into it. The money's just not there.

Mr. LEARY. If I may?

Mr. DUNCAN. Not even close.

Mr. LEARY. The vast majority of the figure that you cited is the figure that has been released by the Corps of Engineers for implementation of the Restudy, which is a series of over 60 projects that will help restore the entire ecosystem and, among other things, provide protection to one of our most endangered parks, Everglades National Park. This restoration effort is going to take 20-plus years to be implemented under the best of circumstances.

Mr. DUNCAN. Yes, but you are talking about ridiculous amounts of money, and if we were to even come close to the figures that you are talking about, you would be taking away money from national parks all over this—all over this country. I mean, it is like the Smoky Mountains get about 9 or 10 million visitors a year, three or four times what any other national park gets, and the Smoky's budget is \$11, maybe heading to \$12 million, and you are talking about \$112 million just to acquire this one little piece of property.

I will tell you, it is just ridiculous, just ridiculous. You people are dreaming, and you are being very unrealistic about this whole thing. I mean, you just—you have to be a little more realistic. There are things, if we were going to create an absolutely perfect world and spend just ridiculous amounts of money, I mean we could spend the whole Federal budget on this project, but it just wouldn't make sense to do it. There are some things, you have to be a little bit more realistic.

I know the easiest thing in the world to do is to spend other people's money, but you have to be a little more sensible and a little more thrifty and frugal and economical at some point.

Thank you, Mr. Chairman.

Mr. HANSEN. Thank you, Mr. Duncan, and I thank you, Mr. Leary and Superintendent Ring, for being with us. We appreciate your attendance with us today.

I would like to ask you if you can possibly stay for these next two panels. It would be nice if you could. I know we are all very busy around here.

Mr. LEARY. I wish I could. I have a hearing on Thursday I need to prepare for, sir. Thank you very much.

Mr. HANSEN. I certainly understand. I would like to point out to you, this thing is fraught with problems, but I don't know how you get around this 1994 law. I have been reading it while these other gentlemen have been talking. Very clear with respect to any lands acquired pursuant to this subsection, the Secretary may not provide more than 25 percent. Regardless of what the Secretary said, I don't know how he gets around that.

The Committee does not authorize the use of Federal imminent domain authority nor does it create a Federal buffer zone in the park.

Just one after another, just like it was written to stop some of the things that I understand are going on, and—but anyway, I won't bore you with that, but I would sure like the Solicitor's opinion on some of those things. The Solicitor's opinion I would like is the difference between the 1994 Act and the 1996 Farm Act, does he feel that one supersedes the other. I would be very curious to know that. If you could provide that to the Committee, I would appreciate it.

[The information may be found at the end of the hearing.]

Mr. HANSEN. And also, if it is all right, Superintendent and Mr. Leary, a lot of us have a lot of questions we would like to ask about this issue, and we would like to submit those to you, and we would appreciate the answers if we could get them. Would that be all right?

Mr. LEARY. We would be happy to answer any follow-on questions you have, and if we have any documents that we wish to provide the Committee by way of explanation, we would appreciate it if you would accept them.

Mr. HANSEN. We really appreciate that, and let me just add and I don't mean this in any unkind way, but we would appreciate them relatively soon. We have this problem. I am one of the senior members of the Armed Services Committee, and whenever we ask somebody in the Pentagon for something, I think 18 months later

we get the answer. So we just get a little weary of that, if we may. But you folks have always been much better; we appreciate that.

Mr. LEARY. Thank you, sir. One last thing, we would encourage the members of this Subcommittee to come visit and allow us to demonstrate to the members of the Subcommittee exactly what we are doing down there and why, and why the administration considers it such a high priority.

Mr. HANSEN. We appreciate that because the gentleman from Tennessee pointed out, we look at the parks system, and I am constantly fooling around with one of these 374 units of the park systems, or the 73 that we have of national monuments till the President makes another one, but anyway, we are always concerned about that.

So this is one that is really creating kind of a big issue to a lot of us, and maybe we ought to have a Subcommittee meeting or CODEL that goes down there and looks it over. That may not be a bad idea.

Mr. LEARY. We would welcome you, however it is you would care to visit.

Mr. HANSEN. Very kind of you. We appreciate it and thank you, gentlemen.

Our next panel is composed of Mr. Dexter Lehtinen, Thomas A. MacVicar, Dr. Ronald D. Jones and Colonel Terry Rice, Retired, if those gentlemen would like to come up, please.

Gentlemen, we are going to run out of time, and we spent quite a bit of time with these first two gentlemen, and I apologize, but we had a lot of things we wanted to know. So, if it is not terribly inconvenient for you, we would like to follow the clock a little close if we could.

You see it there in front of you. It is just like when you are driving your car. It is a traffic light: green, you start; yellow, you start wrapping up; and red, you stop. So if you just feel that there is no question that you have got to have a minute or two more, go ahead, but we would appreciate if you could stay as close as you could.

Colonel Rice, we will start with you and go across. Is that all right?

Colonel RICE. That is fine.

Mr. HANSEN. You have the floor, sir

**STATEMENT OF COLONEL TERRY L. RICE, U.S. ARMY RETIRED,
FLORIDA INTERNATIONAL UNIVERSITY, AND ADVISOR,
MICCOSUKEE TRIBE OF INDIANS OF FLORIDA**

Colonel RICE. Yes, sir. Mr. Chairman, Committee members, I am Colonel Terry Rice, and I have been a public servant for over 30 years now. In February of 1998, I retired from the Corps of Engineers after being an officer for that entire period, working around the world, grappling with some pretty tough challenges.

My last assignment in the Corps of Engineers was with the Jacksonville district, where I had oversight responsibility for Florida, Puerto Rico and the Virgin Islands, and my major priority, my major focus during that assignment was Everglades restoration. It consumed about 50 percent of my time because of the priority it had.

Once I retired, I decided to continue my efforts in Everglades restoration, and to do that, I took a position at Florida International University as a research scientist. I do have a Ph.D. in hydrology, so it gives me a little knowledge of the water and things that happen in the Everglades—water is what restoration is about—and I also advise different people in environmental matters in south Florida, to include the Miccosukee Tribe of Indians.

I think that the Everglades restoration is very important for all of us. I think it has far more meaning than what meets the eye, and I just think it is important to be involved in, and that is what I am dedicated to.

When I came into the Jacksonville district back in 1994 it quickly became apparent to me that this Modified Water Delivery Project was a strategic imperative as far as winning this war to save the Everglades. There was no doubt in my mind that if we didn't find some way to move through this quickly, we were going to do undue harm to the entire system.

It is not just a matter of putting that water into Shark River Slough as you directed be done. It also is putting water into the western part of Florida Bay, which is very important. It also relieves many areas to the north. You have the water conservation areas where the tribe practice their culture which had been destroyed over the years. Lake Okeechobee is being destroyed, a lot of the estuaries are receiving fresh water, that shouldn't be receiving it, because of this; and it is driving tourists home. It is destroying the economy of the area.

So it has impacts throughout the entire system, and that was very apparent; and when I started looking at the project, embedded within was the turning point of the whole war: how do you get by this 8-1/2 Square Mile Area that everybody wants to fight over all the time.

And we had a plan submitted to Congress in 1992, which would solve that problem—that was very clear. Once you build that project you can put the water in Shark River Slough and get rid of all this damage that has been created over the years.

So you have heard by earlier testimony, that in 1996 I declined to sign a statement of principles. The reason I declined to sign that statement of principles was because they could not explain to me how we were going to get through all of these issues that we had to get through to do something other than the Corps plan. I could not see a way through that, and nobody was addressing all this Pandora's box of issues that were going to be unleashed—increased budgets, more environmental problems, and congressional approvals—all those kinds of things. I was very concerned.

So I basically sat back and watched them go through the process of grappling with finding another alternative, and this basically has gone on since 1992—7 years. Progress; we have had no substantial progress in implementing the 1989 Act when it comes to modified water deliveries since 1992. It has been essentially dormant.

I watch these agencies do this over the years, and then finally it came to a head. There was a decision reached last year on November the 12th, 1998, and that decision essentially was to buy out the area and, to me, that was an extremely bad decision. It was

a decision that was ill-advised, unimplementable, and I think, as the chairman said, we are going to be pushing up daisies before it is implemented. This concerned me very greatly.

And of course, South Florida Water Management District had a big role in that, Miami-Dade County had a big role in that, but what you look at here is the Department of Interior's role and they made a commitment that day at that board meeting. It was based on a letter sent by Secretary Babbitt to the superintendent of Everglades National Park, Dick Ring, who was just here, that basically committed 50 percent of the money to buy the entire area.

I am absolutely convinced that that board would never have made that decision to buy out the area unless that commitment was made, and they understood it as a commitment. If you go to south Florida today, they think the money is in the bank. That is why they made that decision. And unfortunately, that decision was not only a bad decision and a bad commitment in my mind, but it also defied the laws of Congress, and let me just explain a little bit of what I mean.

Number one is, it changed the 1989 Act. You said protect it, they decided to buy it out. There was no amendment; there was no action taken to change that. They committed \$60 million when the Corps of Engineers still stands by, and I checked last week, that the \$40 million project will solve or satisfy the Federal interest.

They committed 50 percent—we have already been through that—when the law clearly says 25 percent. They did not go through NEPA before they did that. If you ask here, Mr. Leary says that they are doing NEPA. Well, down in south Florida, it is committed. They think it is a done deal, even though the NEPA process is going to take a long time.

They did not go through the process of consulting with the South Florida Ecosystem Restoration Task Force, which Congress established to coordinate these kinds of things. They did not coordinate one iota with that group before they made that decision.

And lastly, they did not consult with Miccosukee Tribe of Indians, which has a vested interest in seeing this project accomplished as fast as possible.

So all those things, I think, are indications of some things that allowed that decision to be made. A decision which is going to hold things up.

So, in summary, I think it is bad. Obviously, that is my opinion. We have something here that is bad for progress. We need progress. We talk about the \$11 billion that is maybe coming down the road. We need to show some progress in what we already have authorized.

We also are wasting taxpayers' money in my mind. We are also destroying natural resources that shouldn't be destroyed. Some of these are not resilient. They are not going to come back. But worst of all, we are needlessly removing 432 homes from an area when it doesn't have to be done, and it is being done in the name of Everglades restoration; and I think that is totally intolerable and should be stopped.

I think that what you have here is a situation where people need to be held accountable. Accountability, I think, is the word of the day. If we don't hold people accountable, we are never going to get

through this whole restoration process, which is going to go on for 40 years. We have to hold people accountable, people and agencies, and until we do that, we are going to continue to hear the excuses that we hear. We are going to see the process continue to go on and we are not going to have progress like we know we need.

And so I think, in a nutshell, it boils down to figuring out how to hold people accountable and getting through all these different processes that people want to create.

Buying out the 8-1/2 Square Mile Area is not necessary for Everglades restoration. Not buying out the 8-1/2 Square Mile Area is necessary for Everglades restoration as was the wisdom of Congress in enacting the law in 1989. What we need to do now is hold people accountable and get it done.

Thank you.

Mr. HANSEN. Thank you, Colonel.

[The prepared statement of Colonel Rice follows:]

Testimony of Colonel Terry L. Rice, US Army Retired, Ph.D.
 US House of Representatives
 Committee on Resources, Subcommittee on National Parks and Public Lands
 April 27, 1999

The Challenge: I am Colonel Terry L. Rice (US Army Retired). On February 1, 1998, after 29 years as an officer in the US Army Corps of Engineers, I decided to devote my work to the restoration and preservation of the Greater Everglades Ecosystem ... to the creation of a healthy and beautiful South Florida where agricultural, natural, tribal, and urban systems can enjoy a long-term, harmonious equilibrium.

Why? During my 16 years overseas, I spent considerable time working in the developing world ... Africa, Asia, and Latin America. The challenges these countries face are immense ... solving them is essential to the stability and security of our world. In August of 1994, I was assigned as the Commander of the US Army Corps of Engineer District, Jacksonville, Florida. I was immediately thrust into fight to save the Everglades. I learned quickly that the challenges of South Florida were pretty much the same as those of the developing world ... a region striving to accommodate a growing population in a manner that is economically, socially, and environmentally responsible. In South Florida we have a propitious coincidence: the urgency to deal with this challenge combined with the local, state, and national will to bring the necessary resources to bear. If we cannot meet this challenge in South Florida there is little hope that we can do it anywhere. We have an opportunity, not only of helping South Florida, but of creating one blueprint for how others around the United States and the world might meet their similar challenges ... and I want to contribute.

After assuming the position of District Engineer, it quickly became obvious to me that the Modified Water Deliveries (MWD) project was crucial to the restoration of the Everglades ... it would not only rehydrate Shark River Slough, but it would also relieve many environmental and economic problems north of Everglades National Park and in Florida Bay to the south ... given all the damage that was being caused by not proceeding with the project, time was of the essence. And the most onerous challenge to completing MWD was dealing with the 8.5 Square Mile Area (8.5 SMA) ... it was and is, in my mind, the linchpin of the entire Everglades restoration effort. I am confident that the \$150 million MWD project is as important to the environmental health of the Greater Everglades Ecosystem as all other restoration efforts combined. To my great dismay, the MWD project is

Testimony of Colonel Terry L. Rice, US Army Retired, Ph.D.
 US House of Representatives
 Committee on Resources, Subcommittee on National Parks and Public Lands
 April 27, 1999

simply not being implemented with a sense of urgency commensurate with its importance ... largely because of a fixation, on the part of the Department of the Interior (DOI) and Everglades National Park (ENP), on removing the homes and people of the 8.5 SMA.

Forging the Solution – 1970 to 1992: Since the early 1970's, many have grappled with the idea of rehydrating northeast Shark River Slough to restore more natural flows to ENP and Florida Bay. During the 1980's, both Florida Governors Graham and Martinez established committees to develop a strategy for doing it. Neither decided that buyout of the 8.5 SMA was necessary or appropriate. Under the leadership of the late US Congressman Dante B. Fascell, The Everglades National Park Protection and Expansion Act of 1989 (PL 101-229) was passed which directed DOI to pay for, and the Corps to implement, the Modified Water Deliveries project to rehydrate the Slough. The act included the following provision:

Flood Protection; Eight and One-Half Square Mile Area.—If the Secretary of the Army makes a determination pursuant to subsection (b) that the "Eight and One-Half Square Mile Area" will be adversely affected, the Secretary of the Army is authorized and directed to construct a flood protection system for that portion of presently developed land within such area.
 (emphasis added)

The Corps submitted a consensus plan to complete the MWD project to Congress in 1992, which included a General Design Memorandum and Environmental Impact Statement. It was at this point that progress ceased.

Rejection of the Congressional Solution & Paralyzation – 1992 to 1999: Instead of proceeding with the Corps plan to protect the 8.5 SMA, as directed by Congress, DOI and the South Florida Water Management District (SFWMD), the Corps' local sponsor, had other ideas. As public support for Everglades restoration grew, Interior and the District, playing off Miami-Dade County's desire to settle a long-standing local land use dispute, went after removal of the people. For seven years they schemed to make buyout a reality. Growing evidence indicates that their tactics included:

Testimony of Colonel Terry L. Rice, US Army Retired, Ph.D.
 US House of Representatives
 Committee on Resources, Subcommittee on National Parks and Public Lands
 April 27, 1999

- **Propagation of Myths(see attachment)**¹: Over the years, the SFWMD and DOI contrived and promulgated myths that fooled most into thinking that buyout was necessary and prudent. Prevalent among these are: 1) The 8.5 SMA must be acquired for Everglades restoration; 2) The Corps plan does not work; 3) SFWMD taxpayers must pay to fix the Corps plan; 4) The 8.5 SMA is blocking the flow of water in the Slough; 5) The State supports buyout; 6) The Corps plan will require Miami-Dade County to increase services at great expense; 7) Removing people is a non-engineering solution; 8) The analysis that led to buyout was public and definitive; 9) Most residents want to sell; and 10) Buyout will expedite restoration. All of these untruths swayed the SFWMD Governing Board toward the decision to buyout the area.
- **Non-Public Deliberations:** A District Review Team (DRT), which included representation from several governmental agencies to include ENP, was created to develop a recommendation for the Governing Board of the SFWMD. Their deliberations, which resulted in the buyout recommendation and decision, were not public ... they did not include the broad public input vital to making a fair and rational decision. The team's failure to follow the State of Florida Sunshine Law has been challenged by the Miccosukee Tribe of Indians of Florida in state court; the outcome is pending.
- **Coercion of Property Owners:** Several allegations have been made that point to the distinct possibility of coercion and deceptive tactics on the part of SFWMD staff in dealing with the property owners of the 8.5 SMA. Many of the "willing sellers" may not have been as "willing" as has been portrayed. The Governing Board of the SFWMD has recently initiated an investigation into these allegations.
- **Creative Decision Making:** When it was clear that the first consultant's report would not support buyout, he was silenced and a second consultant was hired. The second consultant facilitated a process in which the DRT distorted the facts by creatively selecting criteria, values, and weights in order to quantitatively demonstrate that buyout was

¹ *Miami Herald*, "Debunk myths on Everglades Restoration" OPED by Colonel Terry L. Rice, Monday, December 14, 1998, p17A.

Testimony of Colonel Terry L. Rice, US Army Retired, Ph.D.
 US House of Representatives
 Committee on Resources, Subcommittee on National Parks and Public Lands
 April 27, 1999

clearly the best option. I saw this firsthand as a member of the DRT and deem it to be a very subjective, biased, and flawed process that was concocted to make buyout the alternative of choice.

Although the lead agency in this effort was the SFWMD, DOI and ENP played a major supporting role. **In addition to significantly contributing to the above questionable tactics, DOI and ENP committed, in my judgment defiant to the laws of Congress, at least \$60 million (50 percent of current estimate) to buyout of the 8.5 SMA. Highlighting the improprieties, this commitment of Federal dollars was made ...**

- **Without going back to Congress for authorization when this decision defies the 1989 Congressional directive requiring that the area be protected.**
- **Even when the 1994 amendment to the 1989 law specifically limits any contribution to 25 percent.**
- **Even when the Federal interest can be satisfied for \$40 million.**
- **Without first meeting the statutory requirements of the National Environmental Policy Act.**
- **Without coordinating with the Congressionally established (Water Resources Development Act of 1996) South Florida Ecosystem Restoration Task Force that consists of Federal, Tribal, State, and Local representation, many of which have vested interests in the impact of the decision.**
- **Without fulfilling its trust responsibility to consult with the Miccosukee Tribe of Indians of Florida, whose land is being destroyed by DOI's refusal to expeditiously implement the MWD project.**

After seven years of delay and under the guise of Everglades restoration, the SFWMD, persuaded by DOI's highly questionable commitment of funds, on November 12, 1998 decided to accept the DRT's recommendation to remove over 1,500 residents and 430 homes from the 8.5 SMA. This decision means that every US taxpayer will pay to needlessly raze people's homes and end by fiat a long-standing local land

Testimony of Colonel Terry L. Rice, US Army Retired, Ph.D.
 US House of Representatives
 Committee on Resources, Subcommittee on National Parks and Public Lands
 April 27, 1999

use dispute. Decisions such as this, that needlessly waste money, create delay, and destroy people's lives, must be avoided at all cost or public support for Everglades restoration will be irrevocably eroded and we will all lose a national treasure. Key points follow:

- The buyout decision rejects the wisdom of Florida Governors Graham, Martinez and Chiles, all leading administrations which considered and rejected removal. These governors recognized a phony deal, resting on legal and political quicksand. Governor Bush has already made it clear that he demands balance, objectivity, respect for property rights, and fiscal accountability to be guiding tenets for the public servants of Florida. I have no doubt that the Corps plan is the solution that embodies these principles. Removing people in the name of Everglades restoration, certainly when it is not necessary, is never going to happen. Who would condemn the land and homes of people, at significant added expense, when the Corps project makes it unnecessary?
- The Miccosukee Tribe of Indians of Florida, whose members live in the Everglades, fully supports Everglades restoration. The Modified Water Deliveries Project, authorized by Congress in 1989, is critical to the way of life of the Miccosukee. The project will restore natural flows to Shark River Slough and provide relief from incessant flooding to Tribal land, caused by the artificial dikes and levees, that has killed tree islands, destroyed 85% of the deer population, and jeopardized the Tribe's culture. It will also provide numerous other environmental and economic benefits to many others who live to the north and south. Ten years later the Tribe, along with many other interests, and the Everglades are still waiting, while the MWD project is blocked by bureaucratic stonewalling.
- The District and Interior know that the area does not have to be purchased to restore the Everglades. A recent District consultant's report says that the \$39 million Corps project that doesn't remove people, and the \$120 million "buyout" that destroys over 350 homes, will both equally restore natural flows to Shark River Slough. A plan to keep the main road through the area so that Park rangers can get to their homes

Testimony of Colonel Terry L. Rice, US Army Retired, Ph.D.
 US House of Representatives
 Committee on Resources, Subcommittee on National Parks and Public Lands
 April 27, 1999

deeper in the Slough further contradicts the assertion that buyout is necessary.

- The District continues to say “buyout” is imminent, even though it is contingent on Miami-Dade County financial support that has not been given, and Interior funding that was committed without the environmental review required by law. It also opens a Pandora's box of new procedural and property rights issues, including Corps and Congressional approval. A combination of wishful and linear thinking has institutionalized stagnation, making the continued destruction of the Everglades more certain.
- Proof that the District is on a dead-end excursion is its euphemism for condemnation, the word “buyout”. The District asserts that the government will “acquire” the homes, but avoids the “c” word, “condemnation”. Perhaps ultimately the District will lack the political will to condemn, because they can't take land without a legitimate public purpose and it's difficult to find a legitimate public purpose for forced removal when the Corps project deems it unnecessary. In that case, faced with the many homeowners who won't sell despite governmental pressure, the project will never be completed and tens of millions of dollars will be wasted.
- The District has decided that State and Federal taxpayers will pay at least \$80 million dollars more to buy the area than they would to build the Corps project. They argue that Miami-Dade County might have to pay \$155 million dollars to provide improved roads, drainage, and other services. This is false because the Corps mitigation project does not automatically trigger services. Even if it did, the local services issue is of no concern to Federal taxpayers. If the District and County want to acquire the area because it has been a local problem, they should use local funds — not Federal restoration dollars.
- An ongoing, Congressionally-mandated, Corps “Restudy”, that will serve as the roadmap for the restoration of the entire Everglades system, will be submitted to Congress in 1999. Everglades restoration will take decades and cost billions of dollars under this plan. We must not waste resources, nor hurt people needlessly, if it is to be successful. How can

Testimony of Colonel Terry L. Rice, US Army Retired, Ph.D.
 US House of Representatives
 Committee on Resources, Subcommittee on National Parks and Public Lands
 April 27, 1999

we expect Congress to have confidence that government agencies can execute a \$7.8 billion dollar restoration plan, if those agencies can't follow Congressional direction and implement a \$150 million dollar project in a decade?

DOI and the SFWMD have ignored the directive of Congress and rejected the Corps plan for the 8.5 SMA which could be completed by 2003 for about \$40 million and not adversely affect any people. They have opted for a buyout that will cost at least \$120 million and remove about 1500 residents ... if it ever can be achieved. And they have paralyzed us in our efforts to restore the Everglades!

Regrouping: Where did DOI and its partners go wrong? ... even more difficult, how does one explain it? Having been educated at West Point and trained to win our nation's wars for over three decades, I often count on the strategic principles and lessons that have been ingrained in my ethos. The bright light in this case is **OBJECTIVE ... we have to focus on the objective ... the timely restoration of Shark River Slough!** This lesson was brought home vividly at the Battle of Stalingrad. Besides being the turning point of the Second World War, this battle has also come to symbolize the "senseless sacrifice of human life to individual hubris and political whim."² Ignoring strategic imperatives and expert advice, Hitler was determined to take Stalingrad prior to the oil fields and other essential resources of Russia that were vital to his overall success. His fixation on this false objective resulted in a war of attrition and Germany's loss of more than 250,000 soldiers, enormous quantities of equipment and supplies, and eventually the Second World War. And all he had to do was bypass Stalingrad to change the face of history ... (luckily for us he didn't).

Governors Graham, Martinez, and Chiles understood the objective of the MWD project and that we could not achieve it with a war of attrition in the 8.5 SMA. So did the late US Representative Dante B. Fascell who brokered the agreement and championed the legislation for protecting the area. Now we find ourselves at a pivotal point in Everglades restoration ... it could very well be the turning point in the war to save the Everglades.

² *The New Yorker*, "Stalingrad Letters from the Dead", Timothy W. Ryback, February 1, 1993, p58.

Testimony of Colonel Terry L. Rice, US Army Retired, Ph.D.
 US House of Representatives
 Committee on Resources, Subcommittee on National Parks and Public Lands
 April 27, 1999

We can ignore the lessons of history and fight a battle of attrition over the 8.5 SMA accepting the “senseless sacrifice of human life to individual hubris and political whim” and lose the war to save the Everglades, or we can simply bypass it by building the Corps plan. I have not one single doubt that bypass is a strategic imperative that we cannot ignore if we truly want to save the Everglades.

The Fix: Everglades restoration will fail if we permit government agencies to circumvent the will of Congress ... to unnecessarily commit Federal and State funds, unnecessarily create delay, and unnecessarily destroy people's homes. The actions of Interior and the District with regard to the Modified Water Deliveries project and, especially, the 8.5 Square Mile Area are bad for property rights, bad for budgets, and bad for the Everglades. It's time for Congress to demand that DOI and the Corps carryout its directive ... the expeditious, financially-responsible, people-sensitive completion of the Modified Water Deliveries project. If Congress does not demand accountability, those agencies entrusted with the restoration and preservation of the Everglades will, in the final analysis, be the ones who destroy it.

Specific Recommendations:

- 1) In lieu of DOI, give the Corps the money for the Modified Water Deliveries project and hold them accountable for its completion by 2003.
- 2) Hold DOI accountable for the purchase of the East Everglades by 2003.

Testimony of Colonel Terry L. Rice, US Army Retired, Ph.D.
US House of Representatives
Committee on Resources, Subcommittee on National Parks and Public Lands
April 27, 1999

Attachment referenced at footnote 1:

VIEWPOINTS

MONDAY, DECEMBER 14, 1998 17A
THE HERALD

Debunk myths on Everglades restoration

Retired Col. Terry L. Rice, a research scientist at Florida International University, previously commanded the U.S. Army Corps of Engineers' Jacksonville District. He also represents the Miccosukee Tribe on the Working Group for South Florida Ecosystem Restoration.

OFTEN, as Jean Jacques Rousseau cautioned in his *Discourses*, "We are deceived by the outward appearance of right." It is this "outward appearance of right" that has fixated the South Florida Water Management District's board on the removal of residents of the 8 1/2 Square Mile Area in the Shark River Slough. The Corps plan for restoration can be achieved at less cost and in less time while avoiding the destruction of more than 330 homes. The delay caused by the board's decision to remove residents is tantamount to the destruction of the Everglades and may doom its restoration forever.

To the board, the removal of the people who live "west" of the Corps levee appears "right," even though it accepts without question tens of thousands on the east side, whose negative impact on the Everglades is proven. Further, this appearance of right has been transmogrified into "an absolute right" in the minds of even the keenest intellects, by the contrivance and promulgation of myths:

■ The 8 1/2 Square Mile Area must be acquired for Everglades restoration. Not true. As directed by Congress in 1989, the Corps developed a plan to build a levee to protect the area from increased restoration flows in Shark River Slough and submitted it to Congress in 1992.

■ The Corps plan does not work. Not true. The Corps plan has been proven to be the only plan that salinized recently confirmed that it allows natural flows in the slough.

■ SFWMD taxpayers must pay to fix the Corps plan. Not true. Congress directed that this project be funded 100 percent by the Interior Department. If the Corps plan doesn't work, the Corps is obligated to fix it.

■ The 8 1/2 Square Mile Area is blocking the flow of water in the slough. Not true. The area is on relatively high ground on the slough's periphery. Removing the residents would have virtually no effect on restoration. This fact is reinforced by plans to deep the main canal through the area for levee protection and to build a new canal to the south, deeper in the slough.

■ The state supports buyout. Not true. Govs. Bob Graham, Bob Martinez, and Lawton Chiles all considered total buyout and rejected it.

■ The Corps plan will require that Miami-Dade County increase services at great expense. Not true. The plan provides flood mitigation, not flood protection.

■ Removing people is a nonengineering solution. Not true. Whether the increased seepage due to restoration is intercepted at the current boundary or

further to the east, significant engineering will be required to handle it.

■ The analysis that led to buyout was public and definitive. Not true. The analysis was an example of the use of a quantitative decisionmaking methodology to yield preordained results that affect power.

■ People without the requisite public input, knowledge and resources are not qualified to resist residents want a version of the Corps plan and their roads raised.

■ Buyout will expedite restoration. Preposterous. It could very well be a dead-end excursion! The vote was to buy from "willing" sellers, not to condemn as it necessary, and hinges on cost-sharing. The Corps plan is a dead-end excursion! The Corps plan is a dead-end excursion! The Corps plan is a dead-end excursion!

■ Both the Corps plan and buyout will permit the restoration of Shark Slough. The board rejected the Corps plan, which could be completed by 2003 for \$112 million. The Corps plan would cost at least \$112 million and remove about 1,000 people. Why? It was deceived by the "outward appearance of right" and embellished by myth.

Restoration of the Everglades will cost billions of dollars and take decades. Fixation on false objectives and the desire to protect property at any cost lives, and ultimately will undermine public support. Removing people from the area is a fixation that could doom our efforts to restore the only Everglades in the world.



TERRY L. RICE

[Written answers to questions from the Committee.]

May 21, 1999

Subject: Everglades Oversight Hearing—April 27, 1999

To: Committee on Resources, U.S. House of Representatives

Mr. Hansen did not have time to ask all the questions that he intended to ask at the April 27th hearing. Below are written responses as promised.

- Q. Will the Corps plan work with whatever modifications are appropriate in the detailed design phase? A. Absolutely. I can not imagine a scenario for which the concept documented in the Corps plan will not work.
- Q. Is it necessary to condemn or fully acquire the 8.5 square mile area for Everglades Restoration? A. Unequivocally NO. As a matter of fact, "not buying out the area" is necessary for restoration. Attempting to buyout the area, without a justifiable public purpose, may doom the entire Modified Water Deliveries project and more. We should avoid at all costs unnecessarily removing people from their homes no matter what our endeavor.
- Q. Does the 8.5 square mile area block northeast shark river slough? A. Absolutely not. The 8.5 square mile area is on the periphery of the slough on relatively high ground.
- Q. What is the affect on lands to the north of Tamiami Trail of delay modified water delivery while some try to condemn the 8.5 square mile area? A. Due to the abnormally high water levels created by the Modified Water Deliveries project not being completed, the Water Conservation Areas, Lake Okeechobee, and much of the estuarine system is being significantly damaged . . . much of this damage is irreversible. Time is of the essence.

Mr. HANSEN. Dr. Jones

STATEMENT OF RONALD D. JONES, Ph.D, SOUTHEAST ENVIRONMENTAL RESEARCH PROGRAM, FLORIDA INTERNATIONAL UNIVERSITY

Dr. JONES. Thank you, Mr. Chairman and Committee members. I will make it very brief.

Mr. HANSEN. Dr. Jones, can I get you to pull that mike up pretty close so we can catch everything you are saying, please.

Dr. JONES. Sure.

I am happy to be here. I am a Professor of Biology at Florida International University. I am also the Director of the Southeast Environmental Research Program at the same university. I am on IPA to the United States Army Corps of Engineers, where I work as a senior scientist. I advise various agencies as to water quality issues, particularly pertaining to the Everglades. I have spent the last 14 years working in the Florida Everglades. I have served the Federal Government as an expert for both the Departments of Justice and Interior on water quality issues and other water-related matters. I also have testified in Congress before on these particular, almost these same issues; and I provide advice to the State of Florida, the South Florida Water Management District, the Miccosukee Tribe and the Corps of Engineers on these things.

Your opening statement pretty much covered the areas that I was going to go over. So I am just going to briefly hit some of the high points.

My major concern is the fact that the delay in Modified Water Delivery and the completion of this C-111 project is causing irreversible harm to many portions of the Florida Everglades. As far as I am concerned, it is one of the most important issues facing the Florida Everglades today, getting this Modified Water Project done. The restudy, the effort that we are talking about in the future hinges on us having completed this portion of the project, consider-

ing that the restudy has taken this as being part of the base condition before we can go on forward with that.

Specifically, I work sort of from the south of the system up to the north. I have five particular areas that concern me.

The first of them are the problems that are associated with the elevated salinities in Florida Bay that are directly caused by our lack of ability to deliver water to the northeast portion of Florida Bay and also to the western boundary of Florida Bay, through the Taylor Slough and the Shark River Slough systems. Neither of these can be corrected without the implementation of the Modified Water program.

The—one of the—I guess to highlight that, the salinities in Florida Bay in 1989 were as high as 70 parts per thousand, which is double that of sea water; and areas such as the Taylor River, which is particularly supposed to be a fresh water, or a low salinity river, had salinities of 45 parts per thousand, which is 28 percent higher than sea water.

Some very dramatic problems are occurring in Florida Bay. These are not going to be reversed without the Modified Water Delivery program being put in place.

Everglades National Park, when it was established, the boundary was at—northern boundary of it is basically U.S. Highway 41. The eastern boundary of it was the L-67 extended canal. The Shark River Slough—very, very small portion of that—was included into Everglades National Park along this boundary. Most of it was outside of the park to the east.

The water that has been delivered traditionally into Everglades National Park has been delivered into an area that was short hydroperiod wetlands. We have now flooded that area, causing extensive environmental changes, and we are trying now to restore that by putting water to the eastern flow section, and that is, in fact, Modified Water Delivery. Until we do that, Everglades National Park and the Shark River Slough are going to continue to suffer dramatic damages.

Another thing that comes to effect is, we move up into the 8-1/2 Square Mile Area and the only portion of that I will directly address is, in 1990 I was requested by Everglades National Park and the United States Army Corps of Engineers to evaluate the potential impact of the 8-1/2 Square Mile Area flood mitigation project on its water quality. After extensive research in the design sources of water that would be returned to the Everglades National Park and along with evaluating the phosphorous retention of the buffer strip that was included in this project, I came to the conclusion and advised both the park and the United States Army Corps of Engineers that there was not going to be a water quality problem associated with the project as envisioned.

Currently, the buyout now being the locally preferred option, I do not have the same beliefs. I have—although they have not done the studies for that, my professional opinion right now is that there could be significant water quality problems associated with the purchase of the 8-1/2 Square Mile Area that are not being addressed, and they are just assuming that buying the area and flooding it will not have any water quality impacts. I do not believe that to be the case. It does, however, need to be examined carefully.

Another—fourth point is that because of the inability to deliver water south in the system, destructive flooding is occurring in Water Conservation Area 3A, which is property of the State and leased to the Miccosukee Tribe of Indians. These high levels have caused much damage to the mosaic of the communities out there, and they have caused tremendous damage to the tree islands. And in many cases, the tree islands are so destroyed that they will not be able to be rehabited without massive replantings and, in some cases, going out there and actually raising the elevation of the soil so that we can have this habitat restored.

Final concern is with the fact that we have—without being able to release water south through the system, we have water levels in Lake Okeechobee being held unnaturally high, and we also have massive fresh water releases going to the coastal estuaries which have caused tremendous damage, particularly in the Caloosahatchee and the Saint Lucie estuaries.

Finally, I would just in conclusion say that continued delays in the implementation of the Modified Water Delivery Project will result in continued and potentially irreversible damage to the entire Everglades system, including Everglades National Park. This delay has profound implications directly affecting the plans for restoration of the Florida Everglades and the associated ecosystems.

Congress should do everything and anything within its power to ensure that the Modified Water Delivery Project is implemented and completed without further delay.

Thank you.

Mr. HANSEN. Thank you, Dr. Jones. We appreciate your comments.

[The prepared statement of Dr. Jones follows:]

STATEMENT OF DR. RONALD D. JONES, PH.D., DIRECTOR AND PROFESSOR, SOUTHEAST ENVIRONMENTAL RESEARCH CENTER AND DEPARTMENT OF BIOLOGICAL SCIENCES, FLORIDA INTERNATIONAL UNIVERSITY, UNIVERSITY PARK

I am a full Professor of Biology and the Director of the Southeast Environmental Research Center at Florida International University. In addition I am currently on an IPA from the State of Florida as a Senior Scientist to the United States Army Corps of Engineers, Jacksonville District. I have a Ph.D. in microbiology from Oregon State University and have spent the last 14 years working in the Florida Everglades.

My education, experience and research work qualify me as a water quality expert, including water quality in wetland systems, with special emphasis on oligotrophic (low nutrient) systems such as the Florida Everglades. In addition I am an expert in general Everglades ecology and Everglades water related issues in general. I have been qualified in Federal and state court and testified as an expert in these areas and related matters.

I have served as a Federal Government expert (Departments of Justice and Interior) on Everglades water quality and other water related issues since 1988 and have testified before the United States Congress on these issues. In addition I also provide expert assistance to the State of Florida, the South Florida Water Management District, the United States Army Corps of Engineers and the Miccosukee Tribe of Indians of Florida on Everglades ecology and water related issues.

Introduction

It is my professional opinion that the implementation of the Modified Water Delivery Project (MWD) along with the completion of the C-111/Taylor Slough modifications currently under construction are the most important and critical components of Everglades restoration. Without MWID, not only does the northeast Shark River Slough in Everglades National Park (ENP), continue to unnaturally dry out, but the Everglades to the north of ENP in Water Conservation Area 3A (WCA-3A) are being unnaturally flooded, thus destroying wildlife (including endangered and

threatened species), tree islands and other critical habitat. Water that historically flowed through Shark River Slough is now being shunted unnaturally to the estuaries to the north causing imbalances that adversely affect water quality and the ecology of these systems. Lake Okeechobee is kept at elevated levels for prolonged periods of time, which adversely affects the remaining littoral zone, which is vital to its ecology and health. The natural system, which includes the freshwater Everglades, Lake Okeechobee, Florida Bay, the coastal estuaries and the nearshore waters of the Southwest Florida Shelf, is suffering severe damage because of the failure to implement the Modified Water Delivery Project. The longer we wait to implement MWD, the less the likelihood is that we can preserve and protect the Everglades and its associated ecosystems. Delay is the biggest threat to the Everglades.

Specific Points

Working from south to north the following five water quality and ecology issues are of specific concern:

1. Elevated salinities in Florida Bay.

In 1989 Florida Bay experienced salinities as high as 70 parts per thousand (ppt), which are over twice the salinity of seawater. It is the belief of most scientists and my opinion that these unnaturally elevated salinities triggered a massive seagrass die-off in Florida Bay from which it has not yet recovered. In addition to exceedingly high central Bay salinities, traditionally freshwater to low salinity areas such as Taylor River also experienced salinities that would not be expected under natural conditions. For over one year Taylor River had salinities continuously in excess of 30 ppt and as high as 45 ppt (28 percent higher than full strength seawater). These conditions resulted in massive negative impacts in the northeast portion of Florida Bay along with extensive persistent algal blooms in the central and western portions of the Bay. The delays in implementing MWID has been in large part responsible for the inability of managers to control salinities in Florida Bay and moderate the effects of development within the watershed that decrease freshwater flows to the Bay.

2. Hydroperiod restoration of the Northeast Shark River Slough.

When Everglades National Park was established, the northern boundary (U.S. Highway 41) did not include the historic major water flow way, Shark River Slough. Water delivery structures were constructed that delivered water to areas to the west that only included a small portion of the historic Shark River Slough. This resulted in unnatural flooding of short hydro period areas and drying out of large portions of the Northeast Shark River Slough not included in ENP. The Everglades National Park Protection and Expansion Act of 1989 included the purchase of this area with the intent of rehydrating and restoration of this area. Although the initial rehydration of this area had dramatic positive effects on this area, both in reducing the flooding in the areas west of the Shark River Slough and the establishment of peat forming communities in the Northeast Shark River Slough, ecological restoration has essentially been halted due to the failure to implement MWID.

3. Water quality issues associated with the 8.5 Square Mile Area.

In 1990 I was requested by Everglades National Park and the United States Army Corps of Engineers to evaluate the potential impacts of the 8.5 Square Mile Area and the flood mitigation project for water quality impacts to ENP. After extensive research into the design, sources of water being returned to ENP, along with evaluation of the phosphorus retention capabilities of the soils and biological communities within the project buffer strip, I concluded that there would not be a water quality impact to the Park with the implementation of the Corps' plan for the 8.5 SMA. Although a similar evaluation of the current plan to buyout the 8.5 SMA has not been conducted, it is my professional opinion that serious water quality impacts could result from the implementation of this option that were not possible under the Congressionally authorized MWD Project. This needs to be carefully evaluated as nutrient pollution and eutrophication is the major long-term irreversible threat to ENP and the Everglades in general.

4. Destructive flooding of Water Conservation Area 3A.

Because water cannot be moved south through ENP until the completion of MWD, long-term and persistent flooding of Water Conservation Area 3A has occurred. This flooding has resulted in massive changes in the marsh vegetation patterns, tree island destruction and negative impacts on the wildlife, including endangered and threatened species. In addition WCA-3A contains critical habitat that is being destroyed and will continue to be destroyed or degraded until MWD is completed. Of particular importance is the fact that although the marsh vegetation patterns will

reestablish themselves given a reasonable period of time, the tropical hardwood hammocks (tree islands) will not be restored in a reasonable time period without a massive replanting effort and in many cases reestablishment of soil surface elevations. Therefore, it is extremely important that further destruction be avoided. Although these tree islands represent a relatively small portion of the habitat, their presence is critical in determining the presence of many bird, reptile and mammal species found in the Everglades. Although we all acknowledge the importance of Everglades National Park, there is no excuse for ignoring the equal importance of the Water Conservation Areas. This is especially critical since implementation of MWD is of equal importance to the preservation and restoration of the entire Everglades system including ENP.

5. Water levels in Lake Okeechobee and freshwater releases to the coastal estuaries.

Although not as directly linked to MWD, the inability to move water along its natural north to south path results in elevated levels of water in Lake Okeechobee and the release of excessive amounts of water to the coastal estuaries. This has resulted in negative impacts to the littoral zone of the Lake. The unnatural release of water to the coastal estuaries has resulted in massive fish and shellfish kills, algal blooms and sedimentation. All conditions that are unacceptable and need to be stopped immediately. These freshwater releases have problems associated with both quantity and timing in addition to water quality.

Conclusions and Recommendation

In conclusion, continued delays in the implementation of the Modified Water Delivery Project will result in continued and potentially irreversible damage to the entire Everglades system including Everglades National Park. This delay has profound implications directly affecting the plans for restoration of the Florida Everglades and the associated ecosystems. Congress should do anything and everything within its power to ensure that the Modified Water Delivery Project is implemented and completed without any further delay.

Mr. HANSEN. Mr. Thomas K. MacVicar, you have got the floor, sir.

STATEMENT OF THOMAS K. MACVICAR, P.E., PRESIDENT, FEDERICO & LAMB, INC.

Mr. MACVICAR. Thank you, Mr. Chairman, members of the Committee. My name is Tom MacVicar. I am a registered Professional Engineer in south Florida, today representing the Dade County Farm Bureau, which is an organization that—rural organization representing the \$1 billion agricultural industry just east of Everglades National Park.

I think I may be the only person in the room today who was at the meeting in 1989 of this same Committee, then chaired by Representative Vento, when the 1989 Act was heard. At that time I was an employee of the South Florida Water Management District, and we had just completed a 10-year deliberate, inclusive, very public process dealing with the issues associated with restoring the Everglades National Park, protecting the east Everglades, dealing with property rights and other issues.

Farmers participated; every State, local and Federal agency within the jurisdiction participated; landowners, residents and environmental groups participated.

We had to deal with a national park boundary that made no environmental sense, a Federal water control project that did more harm than good in many cases to the park. We had difficult property rights issues, and we had difficult secondary impact issues, but the community came together as a community.

We reached consensus behind the plan that was embodied in the 1989 Act. It was a tremendous victory for Florida's Everglades, a tremendous step forward for the State of Florida, and was really the first concrete example of the State working together with Congress to restore the ecosystem. It predated congressional action on the restudy and the Kissimmee restoration by 3 years.

It was also a great affirmation for me personally that the process worked. We had good scientists from every agency working together. That fostered good policy by the leaders in Florida, and it ended up with a good solution, which was the Modified Water Delivery Project in combination with the acquisition of Everglades National Park.

What has happened in the 10 years since then has not been nearly as positive a process, and I would like at this point to comment on a few of the statements made by the first panel because the Florida Bay issue came to a head shortly after this Act was passed and shortly after the plan was produced by the Corps and caused a lot of confusion, basically caused the abandonment of the scientific approach to the issue, and it drove a lot of government process.

The 1994 Act that has been talked about here today was really a way to deal with another Corps project—Corps park project, the C-111 project, which is south of Modified Water Delivery. That is a project that recommended, without Congress ever reviewing the plan, that 10,000 acres of our most productive farmland be bought by the government and converted to wetlands.

The 1994 Act was a way to try and get Federal money into the acquisition of the Frog Pond and the Rocky Glades, which are in the C-111 project; it was not a way to get Federal money into the 8-1/2 Square Mile project until the very end when that component was added. And as we heard today, although the water management district has spent well over \$100 million on the Frog Pond and the Rocky Glades, the Department of Interior has yet to contribute its first dime to matching those acquisitions.

I would like to finish up with a—one of the points, this idea of flood mitigation. I apologize for the wandering, but the 1989 Act did not invent the term "flood mitigation." It said flood protection. When the Corps, at the public meetings in Florida, in front of the community, talked about this plan, it was a flood protection plan that was designed to provide a 1-in-10-year flood protection to the area.

Flood mitigation is an idea that the Federal agencies had to come up with after the Act was passed because this looked like a water project that didn't go through the normal water project process. It did not have a cost-benefit ratio. It was not funded through the water resource development program. The way that was defined by the people in the Corps and Interior at the time, completely separate from the interactions with the local sponsor, was to call it "mitigation."

Recent modeling performed by our firm for the water management district shows that it does provide the same level of flood protection as the lands just east of the levee. Flood mitigation is a rhetorical concept. It is not a flood protection concept. It is not an engi-

neering concept, and I don't think it is valid the way it is being used in this instance.

In terms of recommendations, construction of the Modified Water Delivery Project is essential to the protection and restoration of Everglades National Park. I think it is a scandal that here we are with the park that is always referred to as the most endangered unit in the system 10 years after this plan was approved by Congress. We have no meaningful action to put it in place. This is the single most important project for the park, and it is not being built.

The flood protection system around the 8-1/2 Square Mile Area is not in conflict with Everglades restoration. It is not in conflict with the protection of the park, and it should be built to move this project forward.

I would like to reassure you that the action this Committee took in 1989 is still valid today. This plan is still the best plan to move forward with for the Everglades, and by doing so, you will not foreclose any further options of restoration, you will not build an impediment to restoration, and you will do more than anyone has done in the last 20 years to move protection of Everglades National Park forward.

Thank you for your time.

Mr. HANSEN. Thank you, sir.

[The prepared statement of Mr. MacVicar follows:]

Testimony of Thomas K. MacVicar, P. E.
House Subcommittee on National Parks and Public Lands
April 27, 1999

Introduction

I have been directly involved in the efforts to correct the hydrological problems affecting the east side of Everglades National Park for the past twenty years, both as a private consultant and as an employee of the South Florida Water Management District. I was the District's chief hydrologist on Everglades restoration projects and represented the agency during the development and subsequent authorization of the Modified Water Delivery Project.

The Everglades National Park Protection and Expansion Act of 1989 marked the culmination of ten years of concerted effort by all levels of government in Florida to protect and restore the primary waterway into Everglades National Park. The Act authorized the addition of over 100,000 acres to the Park and directed the Corps of Engineers to construct the Modified Water Deliveries (MWD) Project to correct several design deficiencies in the water management system constructed in the 1950s.

The MWD Plan, after years of plan development and engineering studies, was supported by government agencies, environmentalists, farmers and rural homeowners. One component of the plan, providing flood protection to a rural residential area known as the 8.5 Square Mile Area, has been a source of misinformation and confusion for the ten years that preceded the Act and the ten years since the Act was passed. Hopefully the hearing today can clear up some of this confusion.

Summary Points

- Construction of the Modified Water Delivery Project is essential for restoration of the Everglades and protection of Everglades National Park.
- Acquisition of the 8.5 Square Mile Area is not necessary for restoration of the Everglades or protection of Everglades National Park.
- The MWD Plan will correct the most serious water management problem affecting private property east of ENP.
- The design of the Modified Water Delivery Project approved by Congress will not work with the buyout of the 8.5 Square Mile Area and must be modified and re-submitted to Congress for approval if the buyout is implemented.
- A buyout of the 8.5 SMA will add at least \$80 million to the cost of the project and delay the restoration of the Everglades indefinitely.
- The fact that Congress authorized and instructed the U. S. Army Corps of Engineers to construct the MWD Project, but forced the funding to come from the Department of Interior, has undermined the accountability of both agencies and allowed the Department of Interior to withhold funding for key project elements already approved by Congress.

Recommendation

Congress should adopt specific language instructing the Department of Interior to immediately transfer any funds appropriated for the Modified Water Delivery Project directly to the Corps of Engineers in order to accelerate implementation of the project Congress authorized in 1989.

Testimony of Thomas K. MacVicar, P. E.
House Subcommittee on National Parks and Public Lands
April 27, 1999

Background

In 1989, after more than ten years of analysis and debate by government agencies, including two commissions appointed by Governors Graham and Martinez, Congress passed the Everglades National Park Expansion Act. This law expanded the Park to include essentially all the undeveloped land between the east boundary of the Park and the developed area of Miami-Dade County (over 100,000 acres). A 5,800 acre rural residential area known as the 8.5 Square Mile Area (SMA) was excluded.

The Park Expansion Act also authorized the Modified Water Delivery (MWD) Project. This project, to be designed and built by the Corps, was necessary to correct serious design deficiencies in the federal flood control system that were disrupting the Everglades, Florida Bay and agricultural businesses near Homestead.

The levees north of the Park, completed in the early 1960s, divided the Park's main waterway and cut off sheetflow to the most important waterway in the Everglades. Further changes to the canal system in the early 1980s led to the continuous diversion of large volumes of water from the Park into the south Dade canal system. This created a continuing source of conflict between Homestead area landowners and the agencies involved with water management.

Because of the promise to fix these problems, the Park Expansion Act and MWD Project had broad community support. Residents of the 8.5 SMA, local farmers and state and federal agencies, including the National Park Service, all supported the Act. The MWD Project would remove the most problematic levee, breach other levees to allow sheetflow, install pumps to return water back to the Park rather than letting it leak into south Dade, and build a flood protection system around the 8.5 SMA.

It is important to note that, although the MWD Project was a modification to the existing Central and Southern Florida Flood Control Project, it was not authorized in a Water Resource Act. In fact the design document normally required of Water Resource Projects prior to authorization was not finished until 1992, three years after the Everglades Expansion Act. In addition, Congress instructed the Corps to build the Project but required that the funding come through the Department of Interior. This diluted the accountability of both agencies and encouraged the gridlock brought on by the mission conflicts between the two agencies. The Park Service, which supported the plan when Congress was debating the Everglades Expansion Act, used their control of the project funds to prevent the Corps from building the Plan Congress instructed them to build.

The 8.5 Square Mile Area. The 8.5 SMA protection project is a peripheral, but important, component of the MWD Project. The analysis performed by the Corps showed that returning the water from the 8.5 SMA to the Park produced better environmental results for the Park than could be achieved with a buyout. It is also projected to cost \$80 million less than buying the area. Governor Graham's committee and Governor Martinez' committee debated at length the merits of buying the area or protecting it, and in both cases decided that acquisition of the area was **not** the best solution.

In spite of this, the Water Management District, encouraged by the staff of Everglades National Park, recently voted to try to put together a coalition of agencies to buy the area, rather than let the Corps build the protection system. Advocates for this action say it is necessary for Everglades restoration. This is clearly not the case. Had the buyout been

Testimony of Thomas K. MacVicar, P. E.
House Subcommittee on National Parks and Public Lands
April 27, 1999

determined to be a better plan for the Everglades it would have been selected in 1989. It is becoming apparent that no political consensus is forming in favor of acquisition and the only reasonable approach for the Everglades is to proceed with the original MWD Project.

Consequences to South Miami-Dade. An essential feature of the MWD Plan was stopping the continuous seepage of water from the Park into the L-31N canal. If the buyout is chosen there is no assurance that this problem will be solved. The MWD Plan that Congress approved will not work as designed with the buyout. The Corps recognizes this and has begun the process of formulating a new design. Presumably they will have to go back to Congress for approval of any new plan.

There is very little time to do this. The Fish and Wildlife Service has demanded that the MWD Plan be in place by 2003 because of the jeopardy to an endangered species, the Cape Sable Seaside Sparrow. There will be continuing pressure to put more and more water into the Park Expansion Area, even though the government does not own the land, regardless of whether the flood of unwanted seepage from the Park into the canal system can be stopped.

Previous Government Action

The decade of the 1980s witnessed a continuous, concerted effort to protect and restore the East Everglades. In October, 1980, Dade County published its Proposed Management Plan for the East Everglades, prepared under the guidelines of Section 208 of the Clean Water Act. This plan focussed on the imposition of zoning and development restrictions as well as documentation of the natural resources of the area.

An environmental emergency declared by Everglades National Park staff in 1983 prompted additional government action, leading to the appointment by Governor Bob Graham of the Everglades National Park / East Everglades Resource Planning and Management Committee. Although the 8.5 SMA area was only a small fraction of the land area being considered by the Committee, the issue of acquisition of the area in lieu of providing flood protection was extensively debated.

The Committee Report, published in April, 1985, recommended, among other things:

- Public acquisition of roughly 100,000 acres of wetlands between ENP and the developed areas to the east,
- The reflooding of Northeast Shark River Slough, the primary waterway into Everglades National Park, unfortunately not included within the original boundaries of the Park, and
- Flood protection to a residential area adjacent to the Slough known as the 8.5 square mile area.

The State's Save Our Everglades Program continued to focus attention on the need for restoration of the East Everglades and in 1988 Governor Bob Martinez appointed the East Everglades Land Acquisition Task Force. The charge of this group was to develop a strategy to implement the recommendations contained in the Implementation Plan of the 1985 Resource Planning and Management Committee. The Task Force, which included local, state and federal agency representatives recommended that Congress expand the boundary of Everglades National Park to encompass virtually all of the undeveloped land in the East Everglades. The Task Force considered, but rejected, acquisition of the 8.5 SMA as part of this effort

Testimony of Thomas K. MacVicar, P. E.
House Subcommittee on National Parks and Public Lands
April 27, 1999

Congress acted quickly on the recommendation of the Task Force. Public Law 101-229, the Everglades National Park Protection and Expansion Act was passed in 1989.

In 1994 Governor Lawton Chiles appointed the East Everglades / 8.5 Square Mile Area Study Committee, becoming the third consecutive governor to appoint a group to focus on resolving water and land issues in the East Everglades. This committee also considered, and rejected, the option to buy the 8.5 SMA. Instead they recommended that the Corps consider a buffer area within the area that would maximize the return of seepage to Everglades National Park, improve flood protection for the residential area and minimize any relocation of residents.

The title pages from the final reports of the four separate government committees are attached. Each committee deliberated on the water and land management issues related to the expansion of Everglades National Park and the 8.5 Square Mile residential area. These are included to demonstrate the state of Florida's commitment to protecting the East Everglades and assure Congress that the Modified Water Delivery Project, approved in the same federal law that expanded Everglades National Park, is still an essential component of Everglades restoration.

Attachment 1. Title page from East Everglades Resources Planning Project, October, 1980.

Attachment 2. Title page from Everglades National Park/East Everglades Resource Planning and Management Implementation Plan, April, 1985.

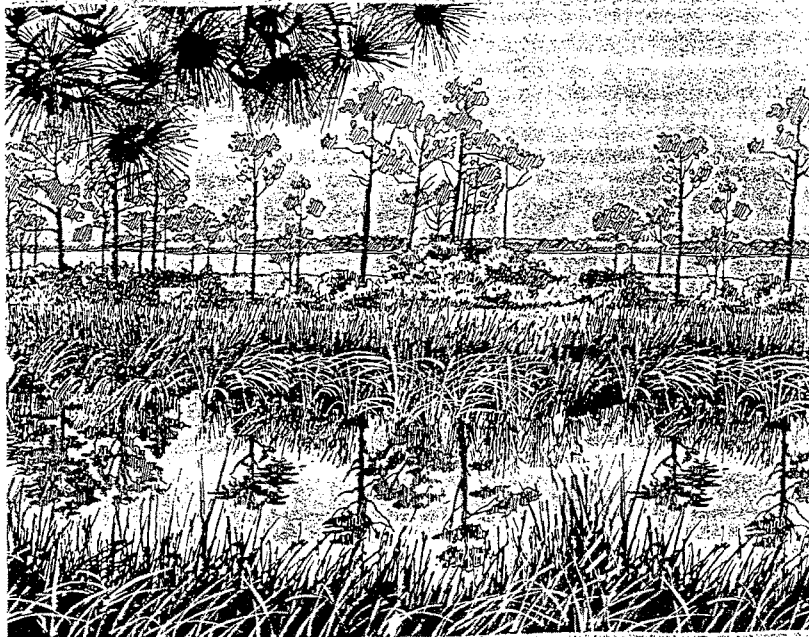
Attachment 3. Title page from the Report to Governor Bob Martinez by the East Everglades Land Acquisition Task Force, October, 1988.

Attachment 4. A Report to Governor Lawton Chiles by the east Everglades 8.5 Square Mile Area Study Committee, April, 1995.

**east everglades
resources planning project**



EVERGLADES NATIONAL PARK/
EAST EVERGLADES
Resource Planning & Management
IMPLEMENTATION PLAN



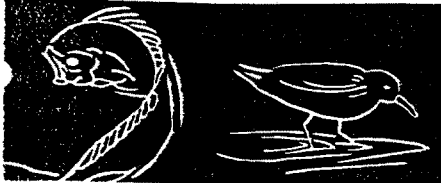
ADOPTED BY THE EVERGLADES NATIONAL PARK/
EAST EVERGLADES RESOURCE
PLANNING and MANAGEMENT COMMITTEE

April 18, 1985

RAY GOODE, CHAIRMAN



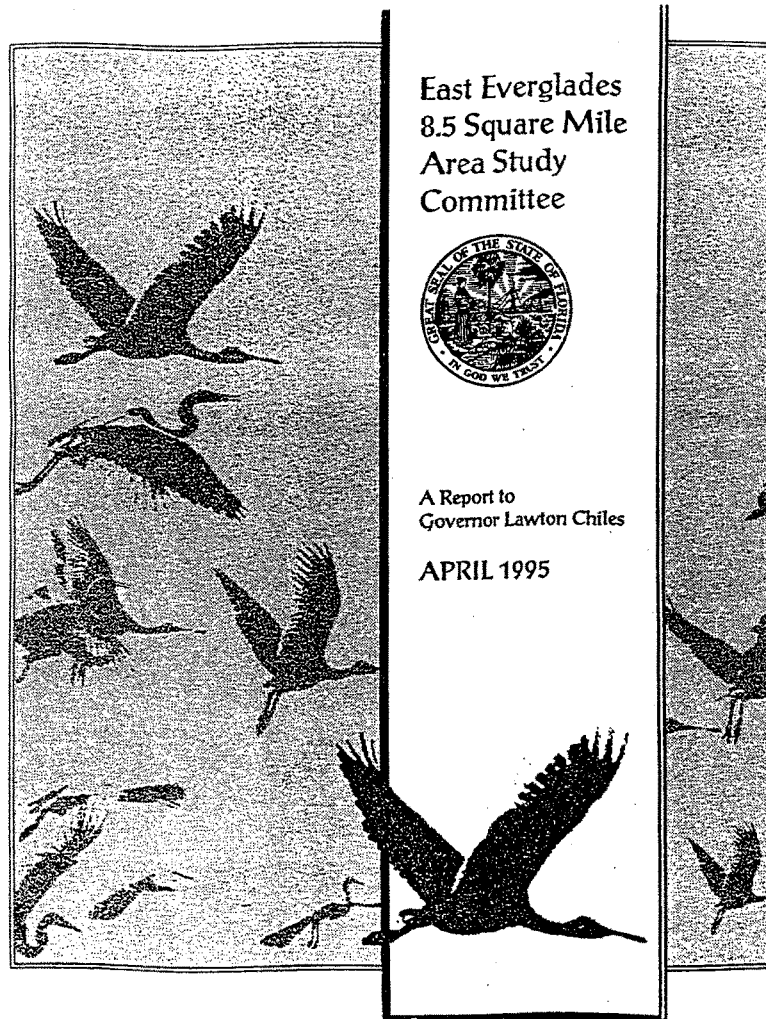
**EAST
EVERGLADES
LAND
ACQUISITION
TASK
FORCE**



**REPORT TO
GOVERNOR
BOB MARTINEZ**

OCTOBER 1, 1988

Attachment 3



SOUTH FLORIDA MODIFIED WATER DELIVERY
A CASE STUDY OF AGENCY OBSTRUCTIONISM

By Dexter Lehtinen
 April 27, 1999

My name is Dexter Lehtinen. On the South Florida Modified Water Delivery issue before the Committee today, I represent the Miccosukee Tribe of Indians of Florida. I presently serve on the South Florida Ecosystem Restoration Task Force, created by the Water Resources Development Act to coordinate Everglades policy, and on the Florida Governor's Commission for Sustainable South Florida.

I previously served as a Florida State Representative and Florida State Senator, representing areas affected by Modified Water Delivery. I served as U.S. Attorney in South Florida when the 1989 Modified Water Delivery Act passed Congress under the sponsorship of then-Congressman Dante Fascell, which all of us perceived as the centerpiece of the effort to improve hydrology (water flow) in the Everglades. As U.S. Attorney, I had filed the lawsuit against Florida on water quality, which was widely perceived as the centerpiece of efforts to improve water quality, the other half of the equation in Everglades restoration.

While the water quality effort has seen considerable progress with the cooperation of the State of Florida and private interests (especially agriculture), the legacy of Congressman Fascell in hydrology (water flow) has been frustrated by Interior Department obstructionism.

Summary

The continued failure (indeed, refusal) of the Department of the Interior to cooperate in the implementation of the 1989 Congressional Act for the restoration of water flows in Northeast Shark River Slough in South Florida is nothing short of scandalous. Implementation of the 1989 Act, a bipartisan effort led by then-Congressman Dante Fascell, would protect the lands of the Miccosukee Tribe of Indians of Florida which lie north of Everglades National Park, protect homeowners who reside east of the Park, and expand the Park itself.

The Corps of Engineers has done its part, developing the appropriate plan, passing the plan through the National Environmental Policy Act and Environmental Impact Statement process, submitting the plan to Congress, and signing a contract to build the project in 1994.

But selfish National Park Service obstructionism and outright misrepresentation, combined with blatant disregard of the 1989 Act itself and NEPA in general, have resulted in immobilization of the Modified Water Delivery Plan while Miccosukee tribal lands are

destroyed and homeowners constitutional rights are disregarded. Furthermore, the DOI has failed to acquire the Park Expansion Area as required by the 1989 Act.

History

The Problem -- By the time I served in the Florida Legislature in the 1980s, it was well recognized that the northern part of the eastern boundary of Everglades National Park had been inappropriately set too far to the west, interrupting water flow in Northeast Shark River Slough. This interruption of flow deprived the Park and Florida Bay to the south of water; but just as importantly, water was backed up or "stacked" in the Water Conservation Areas to the north, including Miccosukee tribal lands, causing flooding which destroys tree islands and biodiversity.

The Analysis -- Two Florida Governors (Democrat Bob Graham and Republican Bob Martinez) empaneled study commissions in the 1980s, both of which recommended that the flow to the Slough be restored, that certain lands be added to the Park, and that a nearby residential area (known as the "8.5 square mile area") be protected. The residential area is not in the Slough and does not block Slough water flow. The Park, the local sponsor for the Central and Southern Florida Project (the South Florida Water Management District, or "SFWMD"), and Dade County (among others) concurred.

The Faskell Bill -- Based on this bipartisan consensus, Congressman Faskell passed the 1989 Act, which directed the Chief of Engineers to restore flow to Shark River Slough at 100% federal expense. The Act directed the DOI to acquire the so-called Park Expansion Area no later than 1994 (the date the Park promised Faskell in his office that they would complete the acquisition). The Act further directed the Chief of Engineers to determine if there would be any adverse effect on the residents of the 8.5 square mile area and, if so, to build a flood protection project.

Water would not flow over the 8.5 area, because the area is not in the path of the Slough, but the water table might be increased with the result that rainwater would not be absorbed or runoff as rapidly as otherwise. This is the same effect as virtually everywhere in Miami-Dade County, which is why the County needs constant flood protection -- because groundwater ("underground" water, not surface water) tables affect stormwater runoff. The Faskell Bill further said that the Slough would not be restored until this project was completed.

DOI Mishandles Park Expansion Area Acquisition -- Although DOI promised Congressman Faskell that it would acquire the Park Expansion Area by 1994 (five years from enactment), by 1999 less than 29% of the privately held land has been acquired (somewhat more than 50% of the entire area has been acquired because the

State gave over a large chunk of public land). This area has few homes, but those acquired are now occupied by Park personnel.

Undoubtedly the inexcusable delay in this acquisition, which is a condition to rehydrating the Slough, is embarrassing to DOI. I suspect that DOI seeks any diversion of attention from this DOI failure, including exaggerating claims about the 8.5 area so that the real failure to acquire the expansion area is disregarded or overlooked.

Corps on Target from 1990 to 1995 -- The Corps of Engineers did a commendable job and by 1992 the General Design Memorandum ("GDM") for the project was completed and had passed through National Environmental Policy Act ("NEPA") and Environmental Impact Statement ("EIS") review, and submitted to Congress. By 1994 the Project Cooperation Agreement ("PCA") had been signed with the local sponsor (SFWMD).

The 1994 Amendment -- Following Hurricane Andrew, when many people were selling their homes throughout South Dade County, the DOI and SFWMD claimed that many people in the 8.5 square mile area were willing to sell and an modest Amendment was passed in 1994 which allowed the federal government to share costs of buying land up to 25%. The Amendment had clear limitations:

(1) It was limited to willing sellers only; the Senate Report (103-224) stated clearly that "...this Act does not authorize the use of Federal eminent domain authority nor does it create a federal buffer zone outside of the park" (p. 3).

(2) Federal funding participation was limited to 25% of the acquisition costs.

(3) The source of federal funds was limited to the 1991 to 1994 Appropriations Acts.

(4) Any and all acquisition under the Amendment was not to delay the overall Modified Water Delivery Project.

With these parameters, the Amendment was thought to be benign and generated no opposition. I should add that the I, the Miccosukee Tribe, and the homeowners were clearly misled and naive in believing the limitations would be honored.

Rewriting the Plan and Ignoring the Law:
The Assault on the Tribe and the Homeowners

With the arrival of a new Park Superintendent and a new Executive Director of the SFWMD, the two agencies moved to undermine the Modified Water Deliveries Project and to condemn the 8.5 square mile area, despite prior agreement by their agencies with the 1989 Act, the 1994 Amendment, the Corps GDM through the

NEPA/EIS process, and the 1994 PCA.

Effects of Delay -- During this delay, Miccosukee tribal lands continued to be flooded (e.g., in the 1994-5 season more than 85% of the White-Tailed Deer population died of flooding). The Corps, continually asked to explain the delays, always said it stood behind its project and could complete the work within four years if allowed to proceed (e.g., in April 1998 the Florida Congressional Delegation was briefed on the delays, using slides showing completion by 2001 if the "holds" on the project were lifted).

Third Governor's Commission and SFWMD Consultant -- The Park and the SFWMD urged the Corps to delay implementing the signed 1994 PCA while the issue was reviewed again. Thereafter, a Commission appointed Governor Chiles reported again that the 8.5 square mile area should not be condemned (1995) and the hydrological consultant retained by the SFWMD for the review reported that full acquisition was not the best alternative (the Corps plan and/or limited variations thereon were preferable) (1998).

The Surprise Recommendation of the Secret Group -- Despite the new Governor's Commission and the consultant's report, the Park Superintendent and the SFWMD Executive Director (removed in March 1999 by a new Governing Board) coordinated an effort to condemn the 8.5 square mile area. An inter-agency staff group (including the Park) created a new proposal, without public notice or public input, to reject the approved Modified Water Delivery Plan and to condemn the area. This recommendation would assure continued destruction of Miccosukee tribal lands as residents defended their constitutional property rights (large numbers of land owners refusing to become so-called "willing sellers").

Reversal of Policy: The November 1998 Decision to Condemn the 8.5 Area -- In November 1998 the SFWMD Governing Board adopted the recommendation of the non-public staff group for full acquisition (condemnation) of the 8.5 area as a "locally-preferred option" ("LPO"), referred to as "alternative 6". The non-public staff recommendation came so late and with so little notice that no practical opportunity existed for concerted opposition. As the Park Superintendent made a surprise announcement at the meeting, it became apparent that the whole idea from the start had been to give no notice of what was happening so that no public opposition could develop.

Subsequently, the SFWMD Director of Ecosystem Restoration acknowledged that "[i]t is true that the 8.5 square mile area does not have to be acquired for Everglades Restoration". See "Memorandum" to "Governing Board Members", dated January 4, 1999.

DOI's Surprise Announcement of 50% Federal Funding -- At the November meeting, the Park Superintendent announced that Secretary Babbitt had committed the DOI to use federal funds to pay 50% of

the costs of the local sponsor in acquiring (condemning) the 8.5 area. The Superintendent introduced a letter from Babbitt and said:

"...I'd like to say today that we are prepared to support Alternative 6, which is the acquisition alternative, and on behalf of Secretary of Interior Bruce Babbitt I would also like to say that we're prepared to participate, should the Board adopt the recommendation. We're prepared to participate in the full costs of that alternative with 50% of the funding."

No prior notice or discussion of this DOI commitment had been allowed; it was a total surprise. In addition, the Park Superintendent advised the Corps in writing that DOI would not fund the NEPA/EIS approved plan (the "Corps plan").

Analysis of DOI Actions

Let me inventory why I think Congress should be upset with DOI's actions in trying to condemn the 8.5 area residents.

(a) Contrary to 1989 Act -- The 1989 Act clearly requires providing protection to the 8.5 area. Failure to proceed on this project creates unreasonable delay and continued destruction of tribal lands and other Everglades.

(b) Contrary to 1994 Amendment -- The 1994 Amendment contemplated expedited Modified Water Delivery under precise conditions:

(i) 25% Federal Funding Cap: The Amendment explicitly capped federal funding at 25%. See PL 103-219.

(ii) Federal Funding Source: The Amendment explicitly limited the federal funding source to the 1991 to 1994 Appropriations Acts. See PL 103-219.

(iii) Federal Participation in Condemnation: The Amendment did not create condemnation authority. The Senate Report (103-224) said: "The Committee notes that this Act does not authorize the use of Federal eminent domain authority nor does it create a federal buffer zone outside of the park" (p. 3).

(c) Violations of NEPA -- The National Environmental Policy Act has been violated in several ways:

(i) Contrary to 1992 EIS: The NEPA and EIS process resulted in an approved project in 1992. No federal agency is should act contrary to the EIS-approved federal decision.

(ii) No 1998 EIS: In 1998, the Interior Secretary

committed substantial federal funding to a project without following NEPA and EIS procedures. Federal funding cannot be committed without an EIS. See, e.g., Natl. Forest Preservation Group v. Butz, 485 F.2d 408, 412 (9th Cir. 1973).

(d) Violations of WRDA -- The planning process established by the Water Resources Development Act of 1996 has been violated.

(i) No Task Force Review: The South Florida Ecosystem Restoration Task Force is supposed to provide agency coordination and prioritization on Everglades matters. See WRDA '96, PL 104-303, Sec. 528(f)(2). As a Member of the Task Force, however, I never even heard that Interior might commit federal money to an condemnation of the 8.5 area. The decision was hidden, so members of the Task Force could not object.

(ii) Not in Restudy/Not Consistent: Condemnation of the 8.5 area has never been proposed or included in the Corps' Everglades Restudy; it's obviously not necessary for restoration. Sec. (c)(1) of WRDA specifically requires consistency with existing law, "including -- (B) the project for modifications to improve water deliveries...authorized by section 104 of the...Act of 1989)".

(e) No Eminent Domain Authority -- Besides these direct violations of law, I am disturbed that the DOI has pursued an unseemly policy of condemning the 8.5 area when neither federal nor state agencies have eminent domain authority in this regard. Let me repeat: Under Florida statutes (F.S. 373.139(2)), the SFWMD does not have eminent domain authority for the 8.5 area condemnation. The SFWMD has so testified to the Florida Legislature and DOI has asked the Florida Legislature to provide such authority, but the Legislature, to its credit, will not do so. Likewise, federal eminent domain authority does not exist.

DOI should not be pushing projects, including committing money, which cannot be executed lawfully. DOI tries to back the Legislature and/or Congress into a corner by refusing to execute the lawful project, hoping that the Legislature or Congress will eventually have no choice but to enact the unlawful project. This is an entirely inappropriate agency behavior.

(f) DOI Failure to Acquire Expansion Area -- In addition, DOI's failure to acquire the Park Expansion Area in a timely fashion is inexcusable, and focus on the 8.5 area deflects accountability from this debacle. When DOI finally sought "Declaration of Taking" authority from Congress (a procedure for acquiring an area by placing funds in trust, requiring approval of Congressional Committees because of its potential for abuse) in 1998, DOI failed to fully reveal its prior failures and did not reveal its plan to condemn the 8.5 area.

Furthermore, DOI did not even request approval of the House Resources Committee, whose approval is needed under prior agreements. The Resources Committee is referenced on page one of the DOI request letter, but the Committee was not consulted. See Letter, John Berry, Asst. Sec., to Hon. Frank Murkowski, U.S. Senate, September 23, 1998.

Farm Bill Appropriation Irrelevant -- In light of the numerous deviations from Congressional directives previously discussed, DOI scrambles to find some justification in the so-called "Farm Bill" (FY96 Appropriation). This is misplaced for two general reasons:

First, as a matter of law, the Farm Bill created no new authority and did not repeal or contradict any existing law. It allowed the Secretary to buy from willing sellers only. In addition, the central principle of statutory interpretation is that general provisions do not override specific, explicit, concrete provisions. Both the 1989 Act and the 1994 Amendment are clear and explicit; if the Farm Bill repealed these laws, then the Farm Bill would allow the Secretary to override virtually any provision of the Central and Southern Florida Project. This is the kind of abusive statutory interpretation which scares South Floridians and makes a mockery of the Rule of Law.

Second, as a matter of fact, all discussions in the Task Force in advising on Farm Bill expenditures assumed the 1989 and 1994 laws to be effective, and that any purchases in the 8.5 area would be consistent with them. There was never any proposal to acquire the whole area with Farm Bill money.

Recommendations

I Have two recommendations for the Committee regarding the Modified Water Delivery Program itself.

1. Condition Declaration of Taking Authority on Compliance with 1989 Act -- Concurrence by the Resources Committee and/or its Chairman in Declaration of Taking authority for the Park Expansion Area should be explicitly conditioned upon strict compliance with the 1989 Act, including the flood project for the 8.5 area, and prohibiting Interior provision of any funds which in any way support or leads to full acquisition of the 8.5 square mile area.

2. Shift Funding to Corps -- Funding for the Corps elements of the project (including the 8.5 square mile area flood project) should be removed from the Department of the Interior and shifted directly to the Corps of Engineers. Interior has shown itself to be irresponsible and has forfeited any role herein.

3. Direct Detailed Planning in Accordance with 1989 Act (excluding condemning 8.5 area) -- The Corps should be advised to proceed with detailed planning for Modified Water Delivery,

excluding any plan to condemn the entire area (excluding full acquisition). DOI is demanding that the Corps analyze full acquisition, but this is an false option for the reasons already discussed, and can only result in more delay.

I have three additional recommendations regarding Everglades restoration in general.

A. Reduce Role of the Department of the Interior -- The Department should be restricted to the same role as any landowner and should have no responsibility or authority outside its boundaries. Interior acts with the motivations of a landowner, not with a broad perspective on Everglades restoration. Special interest influence has long been a problem in Everglades policy; today, the most destructive special interest in Everglades policy is that of the U.S. Department of the Interior. Broad-based restoration cannot and will not proceed as long as Interior is permitted to pervert the process to its narrow interests.

B. Shift Chair of South Florida Task Force to Corps -- The Corps of Engineers should be designated to chair the South Florida Ecosystem Restoration Task Force. The Task Force is now used to further Interior's interests, not the general interest, and Task Force staff perceive themselves as taking orders from Interior rather than from the Task Force.

C. Everglades Funding Through Corps, Rather Than Interior -- General Everglades funding should be appropriated to the Corps of Engineers rather than the Secretary of the Interior. The Secretary uses Everglades funding to further DOI's interests rather than Everglades interests.

It was a mistake, for example, to appropriate Farm Bill money to the Secretary of the Interior and it is a mistake to designate the Secretary of the Interior as the authority for prioritizing land acquisition (FY99 DOI Appropriations). This should be a Corps responsibility, similar to the overall Restudy.

Finally, I have two general recommendations regarding resource management in general.

I. Create a Cabinet Agency for Indian Affairs -- The Interior Department has an inherent conflict of interest in Indian affairs. Modified Water Delivery shows how Interior sacrifices Indian interests to serve other agency goals. As a wounded Army veteran, I believe the establishment of a separate Department of Veteran Affairs made sense, and I believe the same of Indian affairs.

II. Improve Accountability in Interior -- It is essential that accountability within and by the Department of the Interior be improved, because accountability by and within Interior is virtually non-existent at the present time. I confess that, other

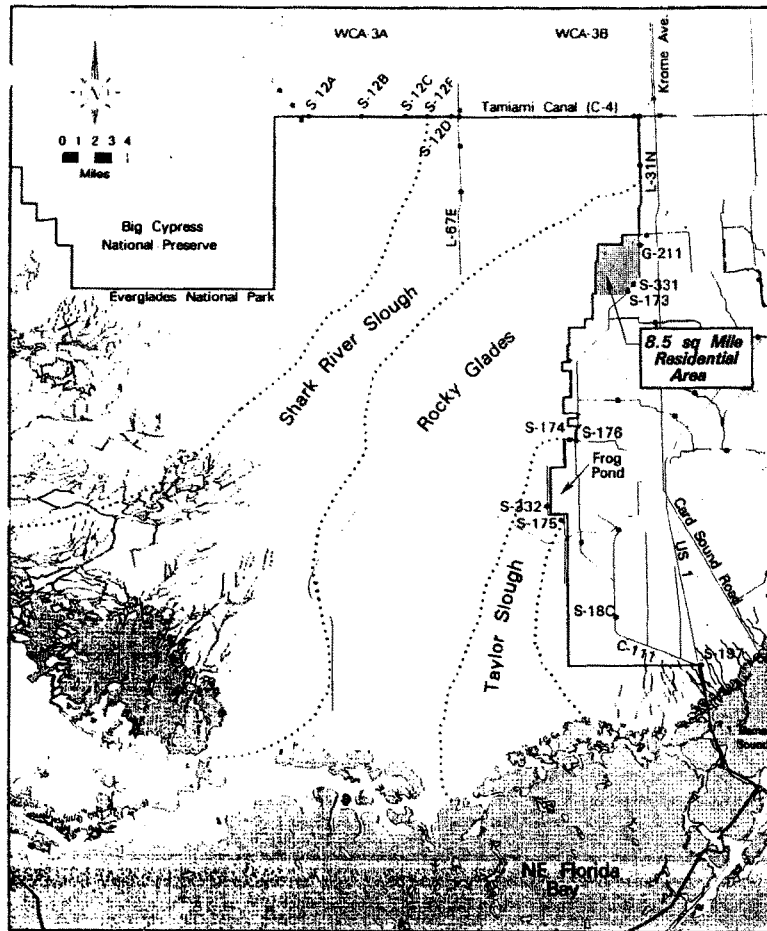
than my other specific recommendations herein, I have no specific schemes by which this could be accomplished.

Conclusion

In conclusion, Congress settled the issue of Modified Water Delivery in Northeast Shark River Slough and made a promise to the Miccosukee Tribe and to the residents of the 8.5 square mile area in 1989. I believe that Congressman Fascell, who passed away last year and was hailed for his Everglades work, would keep that promise. The Corps has kept that promise with a NEPA/EIS approved plan, consistent with three Governors' Commissions.

It's time for that promise to be carried out by other agencies. It's time for the Article II branch to "execute" (as the Constitution reads) what the Article I branch says is the law.

** END **



ATTACHMENT C



THE SECRETARY OF THE INTERIOR
WASHINGTON

NOV 12 1998

Mr. Frank Williamson, Jr.
Chairman, Governing Board
South Florida Water Management District
Post Office Box 248
Okeechobee, Florida 34973

Dear Mr. Williamson:

As you may know, the Fiscal Year 1999 Department of the Interior and Related Agencies Appropriations Act (P.L. 105-277) appropriated \$60.0 million to the Secretary of the Interior for land acquisition assistance funding for the State of Florida. These funds are to be used for acquisitions within the Everglades watershed, which is defined by P.L. 105-277 as "lands and waters within the boundaries of the South Florida Water Management District, Florida Bay and the Florida Keys." This letter provides the Department's position regarding the use of those funds for acquisitions in the Everglades watershed generally, as well as within the 8.5 Square Mile Area.

The appropriation of these funds continues our ability to maintain our successful partnership with the state in acquiring lands integral to the restoration effort. The Department's ability to provide these funds to the state for land acquisitions within the Everglades watershed is, however, subject to the following statutory requirements: (1) that the state match any federal funds provided for land acquisition with its own state funds on a dollar-for-dollar basis; and (2) that any lands acquired pursuant to this authority will be managed in perpetuity for the restoration of the Everglades. Accordingly, the Department expects that any proposed acquisitions with these funds will meet these statutory requirements.

The Department understands that the Governing Board is considering alternatives for a locally preferred option for the Modified Water Deliveries Project. The Department understands that it is the intent of District staff to recommend full acquisition of the 8.5 Square Mile Area. The Department supports this approach. Accordingly, should the Governing Board approve the locally preferred option for full acquisition of the 8.5 Square Mile Area, the Department would provide federal funds for 50 percent of the project's cost. Although we have not yet made a decision on precisely how the \$60.0 million fiscal year 1999 appropriation should be spent in the Everglades watershed, we would consider the acquisition of the 8.5 Square Mile Area to be among the highest of restoration priorities and look forward to working with you to achieve this result. We look forward to working with you to review your funding needs for this purpose for this fiscal year.

The Department appreciates the efforts you and your staff have made during the past 2 years to fund individual land acquisition projects and the progress this has made towards Everglades restoration. Thank you for your efforts to restore the Everglades. We look forward to a continued partnership in this effort.

Sincerely,

M E M O R A N D U M

TO : Governing Board Members

FROM : Alan Hall, P.E., Director, Ecosystem Restoration Department

DATE: January 4, 1999

SUBJECT: Ecosystem Restoration Myth-management

I am writing to give you information that might be helpful in addressing Terry Rice's recent comments in a Herald editorial. You have all received a copy of Terry Rice's op-ed on this subject, copy attached. For your benefit I feel that I need to provide to you some additional details related to what Col. Rice calls "myths." He represents the Miccosukee Tribe in this and other matters; and, as such, presents a very specific point of view on this project. Representatives of the tribe have openly stated that they have no interest in the provision of flood protection to the 8.5 Square Mile Area (8.5 SMA). I will respond to each of his ten "myths" as presented in his article:

1. It is true that the 8.5 square mile area does not have to be acquired for Everglades Restoration. However, it is also true that the acquisition is the least cost, in public funds, of all the alternatives which met the project criteria. It is important to note two things here related to the second part of this "myth statement": a) the Corps was directed to develop a plan to protect the area from increased flows; and b) this was presented to Congress in 1992. First, the Corps plan was designed to ensure that the 8.5 SMA did not get wetter because of increased flows; it was not intended to provide any measure of flood protection above the current conditions - which is none at all. And secondly, was developed in 1992, a full 3 years before completion and acceptance of the Natural Systems Model (NSM) which showed that restoration of the Everglades would require significantly higher stages in this area than was assumed in 1992.
2. The Corps Plan would work "as designed;" which means that it would not provide flood protection to the area above current conditions. If flows in the Everglades are restored to NSM levels, the pumping facilities

Mr. HANSEN. Mr. Lehtinen

STATEMENT OF DEXTER LEHTINEN, ESQ., LEHTINEN, O'DONNELL, VARGAS & REINER, P.S., REPRESENTING MICCOSUKEE TRIBE OF INDIANS OF FLORIDA

Mr. LEHTINEN. Yes. My name is Dexter Lehtinen, and I represent the Miccosukee Tribe. I have also been a Florida State representative, State senator, the United States attorney and did testify in those 1993 hearings in the Keys that Delegate Romero-Barceló spoke of.

Most of my statement has been covered with your statement and questions. So let me just reemphasize.

The delay backs water up and destroys tribal lands. The 8-1/2 Square Mile Area does not have water flow over it under any circumstances. It is only prone to flooding just the way all of Dade County where I grew up is, and that is that if the water table under the ground is higher, then your rainwater doesn't soak in as fast.

This area is not in the slough. Therefore, the Miccosukee Tribe think it is inappropriate to pit those residents against the tribe and subject them to the same kind of Indian removal policies, so to speak, when the land is high enough and it is really a question of just water flowing off.

Let me reemphasize, the Corps has done its job past NEPA and EIS; and also—the kind of bait-and-switch, willing-seller logic that is used is shown also in the Mack-Graham letter. Senator Mack's letter that was mentioned earlier says he supports buying from willing sellers, and Senator Mack told me personally after he signed that letter that he absolutely does not support condemnation of these people. The first paragraph says "willing seller" in the Mack-Graham letter.

Let me just say this. The park has already made up its mind. The park said in November 1998 after a secret group that violated, we think, the Florida sunshine law, gave a recommendation to reverse standing policy and condemn the area. Superintendent Ring stood up in front of the meeting in November that Colonel Rice referred to and said on behalf of Secretary Babbitt, we are prepared to participate in the full cost of the acquisition alternative with 50 percent of the funding. That was a total surprise to even those of us who serve on the South Florida Ecosystem Restoration Task Force.

Subsequently, the local sponsor said in writing, it is true that the acquisition of the 8-1/2 Square Mile Area is not necessary for Everglades restoration, but they want to do it as a land-use issue.

Let me just list quickly the reason Congress should be concerned with this is, first of all, that these delays cause environmental damages.

Secondly, it is contrary to the 1989 Act.

Third, it is contrary—and Chairman Hansen has done this, so I won't quote—contrary to the 1994 amendment because it exceeds the 25 percent spending cap and because it involves a Federal Government in condemnation.

Furthermore, it violates the National Environmental Policy Act because they are going directly against the NEPA-EIS plan in 1992.

Furthermore, in 1989 they absolutely committed funds. In south Florida, they actually say the money is in the bank. They committed funds without a 1998 EIS.

Furthermore, we think it violates the Water Resources Development Act. I serve on the South Florida Ecosystem Restoration Task Force that is supposed to coordinate and prioritize and give advice on these matters, and I can tell you, I first learned of this Interior Department decision when I sat in the audience of the South Florida Water Management District.

It furthermore violates the restudy procedures. Let's look at this and think about this for a second. It is not in the restudy. It would never make it in the restudy. If it was in the restudy, it wouldn't be a locally preferred option. It is a locally preferred option because the entire rest of the Federal Government does not support this procedure.

Park has gone to the local sponsor for an LPO, and then contrary to Corps regulations, where the local sponsor is supposed to pay 100 percent of a locally preferred option, they want to launder 50 percent Federal money in there and buy out that local sponsor to do what Congress wouldn't otherwise do.

I also think that they should have consulted this Committee when they got their declaration of taking on the park expansion area because you could have conditioned it.

And I also think that it is inappropriate and unseemly for the Federal Government to be involved in promoting a project which has—which neither the State nor the Federal Government has imminent domain authority for. The State legislature will not give imminent domain authority. Chairman Hansen is right; it does not have it today.

Water Management has frequently testified to the State legislature that it does not have imminent domain authority for restoration. It has sought it. Mr. Leary went to the State legislature 3 weeks ago and asked them to put imminent domain authority for this project condemning the 8-1/2 in the State legislation. By this Friday when the legislature ends, it will not have put it in, and I am quite sure.

My recommendations briefly are as follows. With regard to Modified Water Delivery—no, let me add. The Chairman handled the farm bill issue, but I just think it is clear. The farm bill creates no additional authority and doesn't repeal any existing law. As a matter of fact, those of us who helped prioritize farm bill money never had condemning the 8-1/2 even discussed with us, as a matter of fact.

Regarding Mod Water Delivery, I would recommend that the Committee assert its authority with regard the declaration of taking in the east Everglades National Park expansion area and condition that declaration of taking on full compliance with the law everywhere else, including not using any Federal funds to do anything to condemn in the 8-1/2.

I would recommend that Corps—that funding be shifted from the Interior Department to the Corps because despite the fact that they

said they didn't have a veto, in response to the Congressman's question, the fact of the matter is, Dick Ring has written in letters to the Corps that he will not fund the Corps project, and the chief engineer says to me he cannot get any money from the Department of Interior.

I would also hope the Committee could direct the Corps to do detailed planning, any modifications that are necessary on additional information under the 1992 proposal, but that planning not include what is essentially an illegal alternative, that is, condemning the 8-1/2 Square Mile Area.

Right now, the Corps, as a political matter out of Washington, does not want to tell the district, even though many in the district would like to just be told by the Corps, that, look, it is an illegal proposal that we made, so forget it.

Two other items just briefly: I think that the Interior Department should be reduced in restoration to nothing more than a landowner because they act as a landowner. It would be wise for the South Florida Ecosystem Task Force to be chaired by the Corps of Engineers, and I don't think funding like farm bill money ought to go through the Secretary of Interior.

I think that the Corps has done everything to keep the 1989 promise. And I just hope that this Committee can induce the other agencies to keep their promise as well. Thank you.

Mr. HANSEN. Thank you very much. Any other comments? No, I am not going to give you another chance.

But let me turn to the gentleman from Nevada. I appreciate your testimony from all four of you gentleman. It was very good.

Mr. GIBBONS. Thank you very much, Mr. Chairman. And I just have one brief question for Mr. Lehtinen.

Mr. Lehtinen, you are an attorney obviously. And on March 18th, 1999, the South Florida Water Management District sent a letter out, and I will quote. Its subject was a 90-day letter of assurance. I will quote the first paragraph: "The South Florida Water Management District, 'District,' is in the process of providing relocation services for the 8-1/2 Square Mile Area Project. To carry out our plans for the 8-1/2 Square Mile Area, it will be necessary for you to move."

That is part of that first statement. Do you believe that that statement gives the impression to the people in the 8-1/2 Square Mile Area that it is mandatory that they sell their property to the district?

Mr. LEHTINEN. It absolutely does give them that impression. And further memos that went out earlier that have the same tone and tenor, saying that we will acquire the area, that if you don't become a willing seller now when there is a considerable amount of money, you will be later condemned, the governing board can vote to condemn you.

All those have produced an atmosphere where these people think they will be condemned, and they believe they have to move quickly or they will be the last people on the totem pole. I should confess that I am an attorney, and this was not planned before, but after the governing board of the Water Management District directed the Inspector General of the district to investigate coercive—possible coercive tactics, which was really an allegation I made at the last

governing board meeting, some members of—homeowners have come to me; and I believe next week—I only say this because I don't want to mislead you—that we will probably be filing some fraud in the inducement lawsuits based on the fact that there are many people who say I never would have sold if I didn't think they could condemn me.

They absolutely are not told what the Water Management District tells the legislature. They have testified to the legislature that we cannot condemn that area unless you give us authority. And at the same time, they tell the residents that they are going to be condemned.

Mr. GIBBONS. Do you think that this letter is consistent with the testimony of the two gentlemen that were here from the Park Service earlier, that you were listening and privy to, where their statements state that this acquisition is not yet predetermined?

Mr. LEHTINEN. I think the fact is that it is predetermined. For reasons that I have said earlier, it is predetermined because the staff of the Water Management District says that to the residents. And the idea on the part of these staff people is that, if they can get—coerce enough people into selling that their plan was that the State legislature or the Federal Government would, years later, upon seeing a lot of land has already been bought, that the legislature would be coerced, would essentially say it is a sunk cost. We have got no choice but to go ahead and condemn. Maybe it is not a good idea, but we have already acquired half of it from so-called “willing sellers,” so let us condemn the rest. It is really an abusive or illegal—improper tactic.

Mr. GIBBONS. Despite the fact that it is an ongoing NEPA study, which would include the acquisition or the construction of a levee and a seepage drainage ditch, there is a back-room agreement or some conclusion that the actual result will be acquisition rather than a levee construction.

Mr. LEHTINEN. I mean, absolutely, the Department of Interior has made the decision. They make it clear that they have made the decision everywhere except in Congress and when we sue them in court. In court, their defense will be, well, the letter—we said we were committing the money, but we really meant we are going to study committing the money.

They do know NEPA. They knew NEPA well enough to walk out of a meeting after they commit money, look at me and say, well, you know, if you sue us under NEPA, we are going to say we really haven't made the decision. I mean, literally say that to me; I don't mean figuratively, I mean literally.

They say I will lose the NEPA lawsuit because they will swear they never made a decision, even though, in south Florida, it is as made as strong as you can make it. And Superintendent Ring's statement to the governing board had no qualifiers; it said, we have committed the money.

Mr. GIBBONS. Mr. Chairman, I thank you for the opportunity. I find the testimony of these folks very enlightening in comparison to the bureaucratic answers we received by the first two witnesses.

Thank you, Mr. Chairman.

Mr. HANSEN. I thank the gentleman from Nevada.

The gentleman from Tennessee, Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman, and I don't really have any questions. I would say, Mr. Gibbons described the testimony as enlightening, and it was, but it was also sad because it is another example—particularly the testimony of Mr. Lehtinen is another example of what we hear day after day after day after day up here of Federal bureaucratic arrogance.

And people all over this country are getting so disgusted and so fed up because they feel that we are ending up or we already have a government that is “of, by, and for the bureaucrats” instead of “of, by and for the people.” I think you are going to see some changes before long.

Thank you, Mr. Chairman.

Mr. HANSEN. Thank you, Mr. Duncan.

I have about a dozen questions for each one of you, but I am also realistic enough to know we have got to be out of this room in a little while, and we have got another panel coming up. So can I submit these to you and get an answer, because I see some real talent sitting here, and I would sure like to have some answers to this if I could.

So with that, we will submit these questions to you, and we will move on to the final panel if that is all right.

[The information may be found at the end of the hearing.]

Mr. HANSEN. The final panel is Joette Lorion, the Honorable Steve Shiver—am I pronouncing that right—Shiver, and Ibel Aguilera. And I probably fouled that up all over the place. Do your best with my poor pronunciation of your name, would you?

Ms. LORION. It was very close.

Mr. HANSEN. Our first one is Joette Lorion. Is that how you pronounce that, Lorion?

Ms. LORION. Yes, sir.

Mr. HANSEN. One out of three, that is not too bad.

STATEMENTS OF JOETTE LORION, ENVIRONMENTAL CONSULTANT

Mr. HANSEN. You know the rules. We will turn the time over to you, and you watch the clock and do your best, okay?

Ms. LORION. Thank you.

“Where after all do universal human rights begin? In small places close to home—so close and so small that they cannot be seen on any map of the world. Unless these rights have meaning there, they have little meaning anywhere.” And that is Eleanor Roosevelt, March 27, 1958.

My name is Joette Lorion. I am an environmentalist. I have worked on environmental issues in Canada and the United States for 30 years. Almost 10 of those years have been spent working on the Florida Everglades. I was considered a strong environmentalist.

I love the Florida Everglades. I have given countless volunteer hours to the battle to protect and restore the priceless Everglade ecosystem. I served nearly 9 years as a volunteer vice president, president, and conservation chair of Friends of the Everglades, the group founded by pioneer conservationist Marjory Stoneman Douglas, who reminded us in her book “The Everglades: River of Grass,” there are no other Everglades in the world.

Another of Mrs. Douglas' messages I took to heart was her constant emphasis that the greater Everglades ecosystem needs to be preserved and restored in its entirety. I firmly believe that to save the priceless park at the end of the system, we must save the Everglades to the north, including the water conservation areas, Lake Okeechobee and the Kissimmee.

Congress recognized long ago the Everglades are dying. So did Congressman Dante B. Fascell, a friend of mine and a true friend of the Everglades. He was instrumental in the passage of the Everglades National Park Expansion Act that you spoke of today. He fashioned one of his greatest compromises in 1989 by providing for the restoration of flows to the park while instructing the Army Corps of Engineers to protect a rural residential area called the Ré because he knew we couldn't remove those people from that land; and at that time, they didn't think they needed to.

I don't know exactly why the agencies didn't follow the intent of Congress, but I do know the results of their inaction. I have observed the serious flooding damage the failure to restore natural flows has inflicted on the beautiful River of Grass to the north of the park.

The Miccosukee Tribe's Everglades River of Grass has become a River of Death. The Tribe estimates that 85 percent of the white tailed deer population has been destroyed. Century old trees that hold together the tree islands, an integral part of the Tribal culture and religious customs have been destroyed. It saddens me when I hear Chairman Cypress say, "The Everglades is our mother, and she is dying." It saddens me when Tribal elders speak of the multitudes of birds that once existed but no longer do, or when a younger tribal member shows me rotted tree limbs and speaks about the spirit of his ancestors and how the killing of these trees is like cutting off his limbs. I am an advisor also to the Tribe, and I speak with them often.

It saddens me when Wayne Nelson, a fisherman who has fought valiantly for Lake Okeechobee much of his life, tells me the Great Lake is near death. It saddens me when I hear tales of water shot out the estuaries killing fish and destroying the livelihood of the fisherman.

Why, I ask myself, are we struggling to unnecessarily remove people from the 8-1/2 Square Mile Area that Congress said to protect, rather than moving forward with the project that is vital to the survival of the entire Everglades and vital to preserving Everglades National Park that belongs to all we Americans?

Perhaps the answer is that others like myself could not see the forest for the trees. I, like many environmentalists, believed the myth that it was necessary to remove these people from their homes to restore the flows. I, like many environmentalists, believed that these people lived in illegal shacks without permits. I, like many environmentalists, were probably told the tale that 65 to 85 percent of them are willing sellers.

After many calls from a resident of the 8-1/2 Square Mile Area, Madeleine Fortin, I researched the issue for myself and visited the area which I had never visited. I found lovely rural communities

spotted with farms, nurseries, and many beautiful homes that look like they came out of "House and Garden" magazine.

I attended a public meeting and saw hundreds of very unwilling and very angry residents. Property owners showed me legal building permits. And I later discovered that the 8-1/2 Square Mile Area had even been exempted from a flood ordinance, that I had been told it was stamped on the back of their deeds they know they are in an area that floods.

I later saw a map that showed the 8-1/2 Square Mile Area is not in Shark River Slough. And I read the Water Management District consultant's report that Mr. MacVicar did the hydrological analysis that showed that acquisition of the area was not necessary, because natural flows would be restored equally to the Slough whether you bought the area for \$120 million or built the \$39 million levee.

But all of the facts, and I try to tell them to people, wouldn't break through the myth. So finally on November 12, 1998, when I stood at that Water Management District meeting, and I had been privy to a process that I thought was totally unfair and unjust to these people, I resigned from Friends of the Everglades, the group that I loved, because I didn't want to taint them with the words that I was going to say; and that was that I felt that this area did not need to be bought out, and that if we bought it out, we were throwing the Everglades and the Park down the drain, because they weren't going to leave, and we were never going to restore the flow.

I thought about my house and what it means to me. It is a home, it is not a house. And you know, I saw people saying they came from Cuba, they came from Cuba on rafts. They escaped. Their land was being confiscated by Castro, and now it was being taken from them in this country.

I guess, lastly, I would just like to say that we really need your help. The Everglades restoration must be restored, not just for the Federal interest and the national park, but for the Federal trust responsibility, to the Indians lands, for the Federal threatened and endangered species that exist in this area. It is important to the water supply of the people of south Florida.

And Congressman Fascell was a wise man. We will make no progress on the Modified Water Delivery Project that is his legacy if we continue to fight.

I would just like to end with the words he said at a groundbreaking ceremony—and I stood on the stage with farmers and people from the community or Steve Shiver, who was once my friendly enemy—and what these words were, "It seems like we have been discussing the same thing for about 50 years or maybe longer. But for a long time, we have had just one group fighting another group. And those of us who were caught in the middle trying to even out these various pressures found it almost impossible to make a lot of progress. There is only one way to get things done, and that is for everybody to work together. The government, the people, we are all the same people."

We don't need victims for Everglades restoration. We don't need to be treating human beings like poker chips, but we do need to

do this project. We owe it to Congressman Fascell to make progress on the wonderful law that is his legacy, for preservation of his legacy will mean progress on the only Everglades in the world.

Thank you.

Mr. HANSEN. Thank you.

[The prepared statement of Ms. Lorion follows:]

83

TESTIMONY
Before the
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES
SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS
April 27, 1999
Washington D.C.

by

Joette Lorion
Environmentalist

Joette Lorion is appearing on behalf of herself as an environmentalist concerned about Everglades restoration, and a United States citizen concerned about the preservation of universal human rights.

"Where after all do universal human rights begin? In small places close to home -so close and so small that they cannot be seen on any map of the world. Yet, they are the world of the individual person: the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world."

- Eleanor Roosevelt, March 27, 1958.

SUMMARY OF TESTIMONY: I, Joette Lorion, a longtime environmentalist, resigned from the formal environmental movement in order to speak out against the current plan by the South Florida Water Management District and the Department of the Interior to acquire the 8.5 Square Mile Area, a rural area in South Dade County Florida. Acquisition of the 450 homes, 5,000 plus acres of land, and destruction of the lives of thousands of people is not necessary for Everglades restoration. In my opinion, the battle over this land will needlessly and senselessly delay the Modified Water Deliveries Project authorized in the Everglades National Park Expansion Act of 1989 (P.L. 101-229), sponsored by the late Congressman Dante B. Fascell. The delay of this project, necessary to the continued existence of numerous endangered and threatened species including the snail kite, the wood stork, the cape sable seaside sparrow and the American crocodile, is unconscionable. The delay of this project, and failure to restore natural flows, will also cause further destruction to the Everglades north of the Park that is vital to the Miccosukee Indian Tribe's culture and way of life; and will adversely affect Lake Okeechobee, Loxahatchee National Wildlife Refuge, and the estuaries. Equally tragic, the arbitrary decision to take away people's property and destroy their lives, when it is not necessary, is a threat to democracy, for if universal human rights don't matter in the tiny, rural 8.5 Square Mile Area in South Dade County Florida, they don't matter anywhere.

RECOMMENDATION: Congress should order the Army Corps of Engineers to implement the Modified Water Deliveries Project that was authorized and directed in P.L. 101-229 by the year 2003, and require the Department of the Interior to acquire all 107,600 acres of land in the East Everglades by this same date. Expedient implementation of this project, necessary to restore natural flows to Shark River Slough is critical to protect the federal interests in the Everglades, including priceless Everglades National Park, the Everglades lands north of the Park held in trust for the Miccosukee Tribe of Indians, and numerous federally listed endangered and threatened species. Furthermore, Congress should demand that the agencies involved in the Project respect the human rights of the 1,500 people who live in the 8.5 Square Mile Area, while they undertake this vital step in the magnificent and worthwhile effort to restore the only Everglades in the world.

One Environmentalist's Story

My name is Joette Lorion. I am an environmentalist. I have worked for thirty years with environmental groups in Canada and the United States. Twenty of those years were spent working on environmental issues in South Florida, nearly ten of those on Everglades issues. I was considered a strong environmentalist and was named "One of the Six Most Unstoppable Women Under the Sun," "One of the 75 People Who Make South Florida Sizzle," and a leading female Florida environmentalist of the year by various South Florida publications. I currently work with the Miccosukee Tribe of Indians who live in the Florida Everglades.

I love the Florida Everglades. I have given countless volunteer hours to the battle to protect and restore the priceless Everglades ecosystem. I served nearly nine years as the volunteer Vice President, President, and Conservation Chair of Friends of the Everglades, the group founded by pioneer conservationist Marjory Stoneman Douglas. Mrs. Douglas reminded us in her famous book, The Everglades: River of Grass that, **"There are no other Everglades in the world."** I took her message to heart.

Another of Mrs. Douglas' messages I took to heart was her constant emphasis that the Greater Everglades Ecosystem needed to be preserved and restored in its entirety. I firmly believe that in order to save priceless Everglades National Park at the bottom of the system, we must save the Everglades to the north, including the water conservation areas, Lake Okeechobee, and the Kissimmee.

The Everglades Are Dying

Congress recognized long ago that the Everglades are dying. So did Congressman Dante B. Fascell. A true friend of the Everglades, he was instrumental in the passage of the Everglades National Park Expansion Act of 1989 (P.L. 101-229). This law authorized the restoration of natural flows to Shark River Slough to protect Everglades National Park, a national and international resource. Dante B. Fascell was an astute Congressman who knew what was realistically possible. He fashioned one of his great compromises in the 1989 law by providing for the restoration of flows to the Park, while instructing the Army Corps of Engineers to protect the rural residential area called the 8.5 Square Mile Area, if they deemed it to necessary. The law also instructed the Department of the Interior to acquire 107,600 acres from private owners in the East Everglades and make it part of the Park, so that natural flows could be returned to the Slough.

Congressman Fascell was so certain that the Congressional intent was clear that he told a property owner in a January 26, 1990 letter, "I am pleased to advise you that the legislation which I sponsored to provide flood protection for the 8.5 square mile area in conjunction with plans to restore the natural flow of water to Everglades National Park was passed into Congress and signed into law last month. I will be seeking funds to implement this

project this year." The Corps deemed the mitigation project necessary and submitted the design to Congress in 1992.

I don't know exactly why the agencies did not follow the intent of Congress, but I do know the results of their inaction. I have observed the serious flooding damage that the failure to restore natural flows has inflicted on the beautiful sawgrass Everglades to the north of the Park. The Miccosukee Tribe's "River of Grass" has become a "River of Death." The Tribe estimates that 85% of the white tailed deer population has been destroyed. Century old trees that hold together the tree islands, an integral part of the Tribal culture and religious customs have been destroyed. It saddens me when I hear Chairman Cypress say, "The Everglades is our mother and she is dying." It saddens me when Tribal elders speak of the multitudes of birds that once existed in the Everglades, or when a younger Tribal member shows me rotted tree limbs and speaks about the spirit of his ancestors and how the killing of the trees is like cutting off his limbs.

It saddens me when Wayne Nelson, a fisherman who has fought valiantly for Lake Okeechobee much of his life, tells me the great Lake is near death. It saddens me when I hear tales of water being shot out the estuaries killing fish and destroying the livelihood of the fisherman. Why, I ask myself, are we struggling to unnecessarily remove people from the 8.5 Square Mile Area that Congress said to protect, instead of moving forward with the project that is vital to the survival of the entire Everglades? For if the Everglades to the north is destroyed, there will be no hope for the beautiful Park that belongs to all Americans.

Breaking Through the 8.5 Square Mile Area Myth

Perhaps the answer is that others, like myself, could not see the forest for the trees. I, like many environmentalists, believed the myth that it was necessary to remove these people from their homes to restore the flows to Northeast Shark River Slough and Everglades National Park. I, like many environmentalists, believed that these people lived in illegal shacks. I, like many environmentalists, believed that these people knew their homes were prone to flooding because it is stamped on the back of their deeds. I, like many environmentalists, believed that if we gave these people the flood protection levee that Congress directed in the 1989 Act, this area would become another suburb and the residents would want tens of millions of dollars in services. I, like many environmentalists, believed the tall tale that 65%-85% of the residents of the 8.5 SMA are willing sellers.

Looking into the 8.5 SMA Myself

After many calls from a resident of the 8.5 SMA Madeleine Fortin, I decided to research the issue for myself. I discovered that much of the popular lore on the 8.5 SMA was not true - starting with the fact that the area is actually closer to 9.5

square miles than 8.5 square miles. I visited the area and found a lovely rural community spotted with farms, nurseries, and many beautiful homes that looked like they came out of House and Garden. I attended a public meeting and saw hundreds of very unwilling and very angry residents. Property owners showed me legal building permits, and deeds that had no flooding advisory stamped on the back. I later I discovered that the higher 8.5 SMA had been exempted from the County's flood disclosure ordinance.

I was shown a map that showed that the 8.5 SMA was not in Shark River Slough. I read the District consultant's report that showed that the acquisition of the area was not necessary, because natural flows would be restored equally to the Slough whether you bought the area at \$120 million dollars, or built the \$39 million dollar Corps mitigation levee to protect it. I sat in one non-public meeting (I was under the mistaken impression it was public) where an interagency team met outside of the Florida Government in the Sunshine Law and came up with a report in two short months that recommended the buyout of the area. A report that the residents of the area had no public input into.

I attempted to convey the facts, and my sense of concern about the unfair process I had observed, to my fellow environmentalists. I shared with them my concern about the negative effect that throwing people out of their homes would have on the Everglades restoration process. Most important, I expressed my concern that fixation on the removal of these people would further delay the Modified Water Deliveries Project necessary to restore natural flows to Shark River Slough. All the facts could not break through the wall of myths, and concerted effort of the Executive Director of the South Florida Water Management District and the Superintendent of Everglades National Park to acquire the area, even though it wasn't necessary for Everglades restoration.

Breaking Ranks and Speaking Out

It was difficult for me to break ranks with popular environmental thinking on the 8.5 Square Mile Area. I knew that speaking out on behalf of the residents in the 8.5 Square Mile Area, when most environmentalists felt they had to be moved as part of the Everglades restoration process, would be looked upon as either treachery, insanity - or both. But, I could not stand by while innocent people lost their land and their homes based on what I perceived to be popular lore that was not based in fact.

It wasn't until the South Florida Water Management District Governing Board met on November 12, 1998, and rubber stamped the buyout recommendation, that I finally decided to speak out. The unfairness of the proceeding deeply disturbed me. It was supposed to be a meeting to decide among six alternatives, including full buyout. It was clear from the beginning of the meeting that the only option on the table was full buyout of the 8.5 SMA.

Colonel Miller from the Army Corps of Engineers showed a

schedule only for the buyout alternative. Dick Ring, Superintendent of Everglades National Park, gave the District a letter from Secretary of the Interior, Bruce Babbitt that committed the federal government to paying 50% of the buyout, that is woefully underestimated at \$120 million dollars. It surprised me that the federal government agency was as disdainful of the public process as the District. DOI had not performed an analysis under the National Environmental Policy Act (NEPA) prior to their offer. DOI also ignored the directive of Congress in the Amendment to the Everglades National Park Expansion Act (P.L. 103-219, 1994), that limited the federal government's participation in any acquisition of lands in the 8.5 SMA to 25% from the 1992-1994 budgets. What was it about the obsession with this property that caused entire government agencies to ignore public process, flaunt the requirements of law, and totally ignore the will of Congress?

I watched powerless people listen as District employees presented the decision making model, arrived at in non-public meetings, that showed the buyout of the 8.5 SMA was the best plan. Hundreds of homeowners had travelled over two hours to address the Governing Board. A man who had escaped from Cuba twice, and now lives in the 8.5 SMA with his wife, asked what he would do with his millions of bees. Others spoke of how they had escaped to this country to build the American dream and now that dream was being shattered. Many opined that their lands had been confiscated by Castro and expressed dismay that their lands were now being taken from them in the United States of America.

A woman standing beside me told me that the man sitting in front of us had serious heart problems, but had traveled to this meeting to save his home. I thought of my father who had just had open heart surgery and what his home of forty years means to him. I thought of what my childhood home still means to me. How I love to go home to the memories it contains. These weren't 450 houses we were talking about destroying - these were lives. How, I asked myself could decent human beings be so indifferent to the fate of 1500 people? I decided to speak on their behalf.

As I approached the podium, one environmentalist concerned about what I might say, told me to remember my mentor, Marjory Stoneman Douglas. I loved and admired Marjory Stoneman Douglas and did my best to serve her and the Everglades we both love so much. I was confident this day, that even though many thought I was deserting her ideals, I was doing what I believed was the right thing for the Everglades. Unfortunately, I felt compelled to publicly resign from the Friends of the Everglades, the organization that I admired and gave years of my life to, so as not to taint them with the negative consequences of my comments.

I told the Governing Board that I felt the buyout decision was wrong, both for the Everglades and the residents. The fight over acquisition from these unwilling sellers would delay for decades the Modified Water Deliveries Project causing further destruction of the Everglades and the Park. Everglades restoration, I feared,

would also go down the drain. I told them I thought we could restore the Everglades and preserve human rights too. To this day, I still believe that is true.

As an environmentalist who always used the public process, I told the Board that I was horrified by the unfair process I had observed. The people making choices that day had more power than they should ever have...power over peoples lives...power that was being exercised nonchalantly and without the requisite public process. I recited the lines from Eleanor Roosevelt that, "Where after all do universal human rights begin? In small places close to home - so small and so close that they cannot be seen on a map of the world." In my mind, the 8.5 SMA is just such a place.

Everglades Restoration Does Not Require Victims

Everglades restoration will never succeed if we hurt people unnecessarily. Everglades restoration will never succeed if government agency officials are allowed to defy the will of Congress. Everglades restoration will never succeed if government agencies are not held accountable for their inaction. Congress must hold the Interior Department accountable for their failure to acquire the 107,600 acres of land in the East Everglades Expansion Area; and for their holding the Modified Water Deliveries Project hostage to the whim of the Everglades National Park Superintendent, Dick Ring. In my years of working on the Everglades, I have not seen Mr. Ring be held accountable.

Everglades Restoration Does Require the Help of Congress

Those of us who love the Everglades need the help of Congress to expedite projects critical to Everglades restoration, especially the Modified Water Deliveries Project. The magnificent plan to replumb the entire Everglades ecosystem will cost billions of dollars and take decades. Congress must find a way to ensure that a project as important as Modified Water Deliveries will never again be allowed to linger for years, causing further damage to the Everglades and endangered species because one agency official decides to veto it.

Finally, we need the help of Congress to protect individual human rights from an arbitrary exercise of power by government agencies. Everglades restoration does not require victims to be successful. We must take care at all times in the restoration process not to needlessly hurt human beings; not to dehumanize them; not to deny them a future. At the risk of sounding like the 8.5 SMA residents I must tell you that I never believed that the type of unfair, unjust, and inhumane treatment that the 8.5 SMA residents received could happen in this country. I can tell you that I will work to see that it never happens again.

We Must All Work Together

I will also continue to work on behalf of the Miccosukee Tribe

of Indians to see that this irreplaceable and unique resource is protected and restored for future generations. The battle for the Everglades is one that I know we will win if we stop fighting among ourselves. Perhaps Congressman Dante B. Fascell said it best when he stood with a group of unlikely partners, including government agencies, farmers, environmentalists, and the Miccosukee Tribe at the groundbreaking for the C-111 Project:

"I just wanted to take a minute to perhaps undergird where we are today. Seems like we've been discussing the same thing for about fifty years, or maybe longer. But, for a long time we've had just one group fighting another group, and those of us who were caught in the middle trying to even out these various pressures, found it almost impossible to make a lot of progress. There is only one way to get things done, and that is for everybody to work together --the government, the people...well, we're all the people whether we're in the government or out of the government, we're all the same. You should never make that distinction, frankly I think it's a mistake." (Congressman Fascell, January 10, 1997).

Congressman Fascell was a wise man. We will make no progress on the Modified Water Deliveries Project that is his legacy if we continue to fight among ourselves. We too must be wise and find a way to resolve this issue so that we can move forward together with Everglades restoration. We must understand, as Congressman Fascell clearly did, that human beings deserve our respect as we restore this national treasure. We must never allow human beings to be treated like poker chips. For, in reality, we all live in the 8.5 Square Mile Area. For, to paraphrase Eleanor Roosevelt, unless universal human rights matter in the 8.5 Square Mile Area, they don't matter anywhere.

**Congress Must Demand Progress on Congressman Fascell's Legacy
To Save the Only Everglades in the World**

I believe that with the guidance of Congress human rights will matter and Everglades restoration will proceed. Everglades restoration is a magnificent human undertaking that is important to the quality of life of all people in South Florida, including those residents who live in the 8.5 SMA. Everglades Restoration is critical to the preservation of the culture of the Miccosukee Tribe of Indians who call it home, and whose lands are held in trust by the federal government. Everglades Restoration is of the utmost importance to the people of the United States who have a vital interest in preserving Everglades National Park for future generations. Congress must insist that progress in restoring the Everglades is made, and that the agencies charged with completing the Modified Water Deliveries Project work together expeditiously to do so. We owe it to Congressman Fascell to make progress on (P.L. 101-229), the wonderful law that is his legacy - for preservation of his legacy will mean progress on the restoration of the only Everglades in the world.

Joette Lorion

Protecting the dying Everglades from its worst enemies

Joette Lorion, like her mentor Marjorie Stoneman Douglas, is tough—and like Douglas, tough with class. Strong-arming polluters of the Everglades is, for Lorion, a matter of common

sense and survival. As vice president of Friends of the Everglades, Lorion recently confronted Secretary of the Interior Bruce Babbitt about their plight. Babbitt had approved an accord with Florida sugar growers aimed at ending the many lawsuits over the reckless polluting of Douglas' beloved "River of Grass."

Like many other environmentalists, Lorion believed Babbitt's plan, which recently fell through, was all wet. "Public lands must not be pollution ponds to clean up dirty water caused by private industry," she says. Furthermore, the plan "placed an unfair burden on the taxpayers. The polluters must be held accountable for cleaning up the pollution they have created."

"Since the early 1900s," Lorion explains, "we have ditched, diked, and drained the Everglades. We have lost 40 percent of the historic Everglades and have cut off much of the fresh water needed by the Florida Bay to survive. Between 1930 and 1980, we lost 90 percent of the wading birds that once lived in the Everglades." But for her, preserving the Everglades is not merely a matter of saving a beautiful place—it is an urgent issue of survival. "This isn't the Pacific Northwest—loggers versus the spotted owl," she says. "This is a very complicated system which provides the drinking water for all of South Florida. The danger posed to the Everglades by the sugar industry and other polluters is a danger to our entire way of life. Our water sustains our lives, our tourist economy and our fishing industry."

The problem, says Lorion, is getting people to understand

that the Everglades is not just a big swamp. The worst polluters are the sugar farmers just south of Lake Okeechobee, whose phosphorus, pesticides and fertilizers drain into the canals that provide water for all of the fish, birds, plants and—yes—humans of South Florida.

"Public lands must not be pollution ponds to clean up dirty water caused by private industry."



Crystal clear: Lorion's vision of Everglades preservation has the worst polluters, like farmers, footing the bill for cleanup—not taxpayers, as is now the case.

Lorion says Babbitt always seems to be away in the Pacific Northwest when anyone from South Florida tries to come calling. As for Washington's new cleanup plans, she quotes Mark Twain: "Water flows uphill towards money." So why should anyone listen? "The endangered species in this case may be the people who live in South Florida." ♦

The OCEAN DRIVE LIST

75 people who make South Florida sizzle

By Tom Austin, Maureen O'Sullivan and Jacquelyn D. Powers

In the end, only a few stray names are remembered. Ask most residents today what Julia Tuttle did to found Miami or how Addison Mizner designed houses and you'll likely get a blank stare. Most of our knowledge of history is sketchy because we're so busy living the present and planning the future. As editors of *The Ocean Drive List* we set our goal as defining those South Florida men and women whose present-day contributions *should* make history. There was a point at which we counted close to 500 names under consideration. But the final 75 who make these pages are definitely people you should know because they represent the mixed bag of individuals who affect our world. Some, like *hôtelières* Chris Blackwell, Ian Schrager and Jason and Jennifer Rubell, are setting the scene in which outsiders perceive Miami. Others, such as Dr. Pedro Greer and Carl Hiaasen, serve to right our area's sociopolitical ills. Some, like supermodels Niki Taylor and Elsa Benitez, look beautiful around the globe yet always return the focus to South Florida. It may be too soon for the Shareef Malnik Auditorium or the Penelas White House, but hang on another 20 years and watch history take form.



Mitchell Kaplan
Co-founder of the Miami Book Fair International, owner of Books & Books
Miami would not have any semblance of a literary scene without Mitchell Kaplan, the owner of two great independent bookstores, Books & Books in Coral Gables and Miami Beach respectively. Both shops heavily support real literature and the local talent pool, and accordingly are forever threatened by the relentless march of the major chain operations. Kaplan has presented a wide array of acclaimed readers at both stores, from Salman Rushdie to Ray Graham. The annual Book Fair, where Trinidadian novelist Miami resident Fred O'Aguiar might follow the rock-star showmanship of Anna Ricca, has become one of these phenomena that make Miami a valid place to live. And Kaplan remains on the job of steadfastly raising the cultural tone. Not every bookstore proprietor, after all, has been featured as a character in a novel, namely Arch Doan in *Dual on Ice* by Les Standiford.

Ken Lerber
President, Post Edge, Inc.
As the president of Post Edge, South Florida's largest video post-production facility, Ken Lerber has his hands full overseeing his company's live network operations systems, full-time production studio and the construction and development of a third full-service video post operation. In addition, Ken was responsible for forging the working relationship between Post Edge and MTV Networks Latin America, as well as the Discovery Channel Latin America, whereby Post Edge provides these networks with production studio space, staff and post-production services. However, his dedication to building Miami Beach's entertainment community doesn't end there—he is a co-chair of the City of Miami Beach's fashion, film, television and recording committee and has served as the vice-chairperson of the Miami Beach Chamber of Commerce. Along with his equally savvy wife, Denise Kaplan, Ken is capturing a heaping piece of Miami's entertainment pie.



David Lawrence

Publishing the news
At 55, David Lawrence is sitting on top of South Florida's newspaper empire as the publisher of *The Miami Herald* and chairman of The Miami Herald Publishing Co. Lawrence's joining the *Herald* at a propitious time in Miami's future (1989) was a boon for the award-winning newspaper. In the last eight yrs, David has propelled the *Herald* even higher with a tight fiscal budget while maintaining an impressive roster of contributing writers including Carl Hiaasen, Dave Barry, Leonard Pitts, Jr., Joan Flaitchman and Greg Fields. This father of five is also actively involved in a wide range of community affairs from chairing the boards of the United Way of Dade County and the Miami Art Museum to supporting the New World School of the Arts.



Joette Lorion
Environmental activist, president of Friends of the Everglades
Founded in 1969 by Margory Stoneman Douglas, Friends of the Everglades originally fought against a proposed report in the heart of the River of Grass. Since then, the 6,000-member-strong organization has waged a continual war to make the Glades—home to more than 50 endangered species—clean and viable again, though half of the only wetland of its kind in the world has already been drained. Lorion has been an environmental activist in Florida for over 15 years, and, aside from her volunteer presidency at Friends of the Everglades, works as a research specialist. She has been involved in a number of environmental lawsuits, up to the United States Supreme Court level. Here's to keeping nature everywhere alive.

Jim Leyland



Managing the Marlins
For 11 years Jim Leyland led the Pittsburgh Pirates to numerous victories at bat, including winning the National League's Eastern Division Championship for three consecutive years. With 32 years of baseball experience under his belt—six as a player—Jim is proving to be one of the most successful managers of his era. When Leyland was signed as manager to the Marlins last October, he rounded out the impressive coaching quartet of Pat Riley, Jimmy Johnson and Doug MacLean—making Miami a sporting town to be reckoned with. Already, Leyland has made some wise moves including bringing two of his favorite Pirates with him—Bobby Bonilla and Dennis Cook.

Madonna

Never needs an introduction
Good or bad, she's a working mom who happens to be the most famous woman on the planet, endlessly dissected in both tabloids and scholarly journals. The chintz play of the Madonna saga includes glamorous exhibition, fancy mediaworthy friends and local mascot status. And once in a while, a few real surprises are even in store: Who could have imagined that the Peck's bad girl of pop would, of all evolutions, wind up hosting a party for the United Way?



The Miami Herald, July 8, 1993

Homestead put on 'fast track' for aid

Air base put on fast track for renewal

Homestead to get priority for funding, rebuilding aid

By FRANK BRENNAN
Herald Staff Writer

Homestead Air Force Base will become a national showcase of ways to breathe new life into out-of-date military facilities, a top Pentagon official announced Wednesday.

For months, local leaders have voiced a common refrain in their dealings with the federal government. Please, they said, keep Homestead AFB alive.

Those same eloquent leaders sat in stunned silence Wednesday as visiting Deputy Defense Secretary William Perry announced that the government would make Homestead its first "model base."

Homestead Mayor Tad DeMilly led the applause when Perry said the designation puts Homestead on a "fast track" for government funds and support to rebuild the base as a joint military and civilian operation.

"Four months ago, would anyone have believed this?" DeMilly said afterward.

Around the country, bases are being closed or scaled back with the end of the Cold War. Hoping to cushion the economic blow, the federal government and local communities are looking hard for ways to recycle the land and buildings.

Perry said the government will set up three model bases: Homestead, Alameda in California, and another still to be decided. The models will receive top priority for their reuse and redevelopment plans. The idea is that other communities on the Pentagon's hit list will be able to look to them



Perry

for ideas and inspiration.

"It's a dream come true," said Alan Rubin, vice president of the Beacon Council and co-chairman of the committee that made the redevelopment plan presented Tuesday to Perry.

"What it says to us is that we're the No. 1 reuse plan in the country. We will receive the first dollars, and we will obviously be successful because the government is banking on us to be."

Perry called the Homestead efforts "the best I've seen" and vowed the government would "supply substantially more grant aid, substantially more support staff," and would accelerate the transfer of base property to the county.

The plans call for joint operation of the base by the Air Force reserves, National Guard, U.S. Customs and the Metro-Dade aviation department. Metro wants to gradually convert much of the base into a commercial cargo and passenger facility, focusing on Latin American markets.

"We chose Homestead because... it is my belief that you have great potential for success," Perry said. "This is a splendid base. I will go back to the secretary of defense and the president and tell them the Homestead reuse plan is well-launched, and we should fully support it."

Perry would not speculate on exactly how much money the base planning committee could expect, but said he figured millions would be added to the more than \$100 million already allotted to Homestead for hurricane rebuilding.

He also said he hoped two Air Force reserve units and other tenants would return sometime next year.

"It's an exciting thing," said Otis Pitts, President Clinton's local hurricane recovery point man. "It's going to be revitalized."

Mr. HANSEN. Mayor, good to have you with us.
Let me ask you, did they rebuild Homestead Air Force Base after Andrew went through there?

**STATEMENT OF HON. STEVE SHIVER, MAYOR, CITY OF
HOMESTEAD, FLORIDA**

Mr. SHIVER. I am going to refer to that, and I will actually read the headline put on an article, "Air Base Put on Fast Track for Renewal, Homestead to Get Priority Funding for Rebuilding and to be a Model Air Force Reuse Facility."

Unfortunately, that was printed on July 8 of 1993, and we still have no movement on the Air Force base, largely because of the Department of Interior's involvement. I thank you for asking that question. And, boy, I had that article ready, didn't I?

Mr. HANSEN. You were ready for me on that one.

Mr. SHIVER. Thank you very much, Chairman Hansen, and the rest of the Committee for allowing me to share with you some thoughts. I was asked to submit a supplemental analysis of my comments; and simply one line was the frustration that this community is feeling. That recaps my entire written document that has been submitted to you for the record.

Have you ever seen a snowball start at the top of the hill? Well, as Mr. Duncan pointed out, the only difference that we have now is that this DOI-driven cost and expense, there is no bottom to that hill. That snowball is going to continue. That snowball is going to get bigger and bigger and bigger until somebody stands up and demands accountability.

My community was devastated by Hurricane Andrew in 1992. I hate to even speak of that because that was such a traumatic time for all of our community. But, realistically, we have rebuilt, we have come back physically; and mentally is still challenging sometimes. You get the scares of hurricanes, and everybody runs for the boards and the bottled water. But we still had been able to come back.

But the closure of the Air Force base, the issues with Water Management that continue to be—to go on, that we will never come back from, unless there is some accountability from this Committee demanded by—or demanded by this Committee to the Department of Interior.

I think the issue of accountability really stems from several things. But I want to point out a fact that has been mentioned a couple of times, and that is the Frog Pond. The Frog Pond was something that had to be—it was essential to be acquired. For the agricultural areas and the uses in the Frog Pond, it was just killing Florida Bay.

The Department of Interior lobbied very strong with the Water Management—Water Management board to basically move forward in acquiring that property. Their cost estimates at that time were \$11.5 million. Come to find out, once all was said and done, \$43 million later, that condemnation, there has now been research published that agriculture really was not the demise of Florida Bay; and that property has now been leased back to farmers. I guess that is just another issue or another point of best management practices.

You mentioned the Air Force base, the fast track there. We have had many politicians, we have had many representatives from various government agencies come into our community and say they are going to do everything they can to make sure that the economic stability of our community is dealt with, from putting the Air Force base back on-line, from ensuring that our subsurface flooding issues that has been basically killing our agriculture, as testified to by Tom MacVicar, the representative from Farm Bureau; and still nothing has been done.

We talk about willing sellers in the 8-1/2 Square Mile Area, willing sellers. After the Department of Interior and Water Management for 10 years have been asking, on again off again, whether or not they are going to condemn the property, I would probably be a willing seller, too, just to get out.

I think Dexter Lehtinen hit it on the head when he said there are strong evidences of coercion there. How would you like your home to be subject to condemnation discussions for over 10, 15 years? That roller coaster, that emotional roller coaster I think you would be on would be just devastating.

Joette mentioned our love-hate relationship in years past. Well, it was the vice president of that very organization that Joette represented that told me at that same ground-breaking, we are going to get your land whether you like it or not. That is a vice president of Friends of the Everglades, a representative, be it formal or not, of the Department of Interior and their movement to basically seize all land area in south Dade.

I have asked on many occasions at the end of the day, Mr. Department of Interior, what do you see south Florida being? Give us your agenda. Give us your results. There are none. There are vague answers, as you were asking many pointed questions. And I thank you all for having the ear or giving us the opportunity to voice, because I don't think we have been listened to.

We talk a lot about science, we talk a lot about birds and bees, but what about the economic viability of the community that can actually throw a stone at the Everglades National Park and Biscayne National Park? Thank you for giving us that opportunity to voice those concerns.

I want to close with a couple things, just again in a department run rampant. A \$5 million pump has been built west of Homestead, the city of Homestead. That pump was said to be essential in replumbing the Everglades. That was done recently, and they don't have a permit to turn on the pump. The Department of Interior and Water Management and the State of Florida have not come to an agreement. It was built on time for extra money, actually ahead of schedule. They can't even turn it on.

It is a department run rampant. It is an environmental community in some instances, the extremists, that are holding us hostage, and that is the people that actually live, work and play.

One more point, and I will close. Recently, there has been serious discussion with the Collier Foundation for swapping our Homestead Air Force Base for drilling rights that they still maintain in the Big Cypress.

Now, Bill Leary will tell you that his immediate reaction was to send the Collier family and the Collier interests to Homestead to

talk to the local concerns. Well, I met with them the day—yesterday, actually, and that was one of the first meetings and discussions that we have had concerning that entire issue.

Once again, the Department of Interior is cutting deals on the backs of Homestead and South Miami-Dade County without any consultation or input from the people who live, work and play there.

Please demand accountability. Thank you for the opportunity to address you, and I will be happy to answer any questions.

Mr. HANSEN. Thank you, Mayor.

[The prepared statement of Mr. Shiver follows:]

STATEMENT OF HON. STEVE SHIVER, MAYOR, CITY OF HOMESTEAD, FLORIDA

Ladies and Gentlemen:

I want to thank you for the opportunity to speak to you today about several issues that have really changed the lives of many people in the community of South Miami-Dade County. I hope the information and testimony provided will give you insight and some understanding of not only the difficult economic challenges we have faced over the past few years, but the seemingly increasing regulations, constraints and intrusive environmental bureaucracy that continues to plague our community.

South Miami-Dade County, more specifically the Cities of Homestead and Florida City, have historically depended upon two economic bases. The first being farming with the vast majority of our work force depending on our greatest resource, land. Secondly, the former Homestead Air Force Base, opened in the late 40's, was a significant employer of many in our community.

As you know, in August of 1992 Hurricane Andrew struck South Florida leaving South Miami-Dade County facing the most difficult task of rebuilding every aspect of our region. Little did we know that the devastation of Hurricane Andrew was just the beginning of our long and arduous journey on that dreadful night we were not only destroyed physically and mentally from the affects of the hurricane, it also brought about the closure of the Homestead Air Force Base which has proven to be far more devastating than any natural disaster.

Immediately following Hurricane Andrew, there were many that came in to town promising the rapid recovery of our economy. In fact I have attached an article from our local paper dated July of 1993 that really lays the groundwork for our frustration. The headlines read "Air base put on fast track for renewal." In this article you'll see comments by then Deputy Secretary of Defense, William Perry. Mr. Perry indicated that the reuse of Homestead Air Force Base would set the standard for military transfers in the Country. He goes on to say that the idea is for other communities facing military facility closures to be able to look to us (Homestead) for ideas and inspiration. Well ladies and gentlemen, unfortunately the only inspiration that came out of the Homestead Air Force Base closure was to those who saw it as an opportunity to discontinue all air related uses of what had been a heavy traffic airport for almost 50 years.

You may ask what this has to do with the issue at hand or the Department of Interior. Well it's my opinion that the majority of the propaganda circulated in the environmental community about this issue is from organizations and individuals with close ties to the Department of Interior. In fact, this has been a pattern for many years.

I'm relatively new to this process being elected to office in 1993. At that time, the multitude of environmental issues ranging from the reuse of the former Homestead Air Force Base to subsurface flooding of our farmland were becoming increasingly hot topics. However, a bit naïve and eager to "get the job done" I thought I could bargain and reason in good faith. I thought we could reach a solution or compromise that would allow for the sustainability of not only our precious environment and natural resources but also our fragile economy and the people who call South Miami-Dade County home.

Throughout my "awakening" I was told by many who has been down that road before, not to trust "them," (the Department of the Interior and environmental groupies) not to let my guard down. After all, this was the same Department of Interior and Everglades Administration that in 1995 convinced the State of Florida that the 5,200 agricultural acres referred to as the frog pond was absolutely critical for the Everglades to survive. Agricultural uses had to be eliminated immediately to

save Florida Bay. This was also the same DOI that said the cost of acquisition of the 5,200 acres was only going to be \$11.5 million and they assured the taxpayers of Florida that they would be there with their share. Well in 1995, the property was condemned and the actual cost turned out to be \$43 million. To sum it up, South Miami-Dade lost thousands of agricultural jobs and the Park Service has since published research showing that the Florida Bay problem was not related to agriculture. Meanwhile, the State of Florida has leased most of the 5,200 acre frog pond to "different" farmers to grow lower value crops. Chalk one up for "Best Management Practices."

Nonetheless, I was able to convince many to come together for meaningful discussion with various environmental groups, Department of Interior representatives, farmers, bankers, land owners and the like. We worked diligently with sometimes quite heated debate addressing land use issues surrounding the former Homestead Air Force Base. I guess my true "awakening" happened when I learned that environmental representatives within this group were actually the driving force behind the lack of activity relating to the reuse of the former Homestead Air Force Base. No compromise short of nothing at all was good enough. I was really shocked when a Vice President of the Friends of the Everglades, an organization with close ties to the Department of the Interior, informed me that they would "get all of our land if we like it or not."

As a life long resident of the City of Homestead growing up with the Everglades and Biscayne National Park as our neighbor, the last thing we as a community want to do is contribute to their demise. However, we must also listen to the stakeholders of the community. We must listen to those who actually have their lives invested in this community. Those who want to work, live, play and raise their families here. As a taxpayer, we must also listen to reason. There must be sound science in place *before* major projects are undertaken. The taxpayer of America can not afford another frog pond.

I know there are many that will testify to the merits of the science. They will argue that we have studied this issue for many years and have reached conclusions that have not been implemented. Perhaps it's because the results of these conclusions are not acceptable to the Department of the Interior. Well, in South Miami-Dade there are a lot more interests than just the Department of Interior and we plead with you to help us get that point across.

At issue today is the 5,800 acres in South Miami-Dade County referred to as the 8.5 square mile area (8.5 sma). Once again, the Department of the Interior has determined that the acquisition of this land and many homes is essential to the survival of the Everglades. However, there have been three Governors in the State of Florida who have appointed various study commissions dealing with land acquisition and water issues in the East Everglades. Each commission has determined that acquisition of the 8.5 square mile area is not essential. In fact, some studies show that returning the water to the Park from the 8.5 square mile area has more of an environmental benefit.

But just for a moment, let's set aside the science and consider the people. There are numerous families that have invested their life savings in homes and property in this area. Imagine your home for a moment. Then imagine a governmental agency that for over 10 years has said they need your land for conservation and water issues and the next year they don't. I've often said we are the most affected and least influential in the decisions that are being made for us. Imagine for a moment the emotional roller coaster you would be on if your community, your home, for over ten years was the on again, off again focus of condemnation.

Consider what that does to the value of property in that area. The value of homes that have been the focal point for investment for many who call this area home have been seriously affected by this cloud the Department of Interior has placed over the entire area. I hope their estimates of acquisition are better than their estimate of the frog pond.

I am no scientist but we continue to talk about land acquisition in the East Everglades to create a buffer zone. Why not ask to create the buffer zone inside the land area already owned by Everglades National Park. It seems that would be far less expensive.

In conclusion, I hope we can count on you to make the Department of Interior accountable. We, the people of South Miami-Dade County don't have the luxury of a band of attorneys, consultants, and paid environmental organizations embarking on national letter writing campaigns. The Department of the Interior should be required to have sound and independently confirmed science in hand before they continue their siege on our community.

Mr. HANSEN. We now turn to Ibel Aguilera. Did I come close?

STATEMENT OF IBEL AGUILERA, THE UNITED PROPERTY OWNERS & FRIENDS OF THE 8.5 SQUARE MILE AREA, INC.

Ms. AGUILERA. Ibel Aguilera. That was close enough.

Mr. HANSEN. You have got the floor anyway.

Ms. AGUILERA. Mr. Chairman, I am honored just to be here today. I am here on behalf of the United Property Owners & Friends of the 8-1/2 Square Mile Area. This is an association that was formed right after the November 12th decision of acquiring our land. Our association represents the unwilling sellers.

There has been a lot said about who is willing and who is not a willing seller in our area. Unfortunately, I forget my glasses in the hotel room so—thank you.

I would like to state for the record that last—as recent as last month, I sent out a general mailing to all the property owners in the area, not just the residences, but all the property owners. I have just had returned over 100 forms, and all of them are unwilling sellers. I would like to request the opportunity later on, in the future, to submit all these forms, plus the rest that are still out there pending, to this Committee.

Mr. HANSEN. Without objection, we will put it all in the record if that is all right.

Ms. AGUILERA. So you can judge for yourself the unwillingness of the sellers up there.

I would like to tell this Committee, this is not a restoration issue; this is a human rights issue. As you are aware by the testimonies that were given here before, the majority of the property owners in the 8-1/2 Square Mile Area are Cubans. These people came to this country in the search for freedom, in search of rights. In the 8-1/2 Square Mile Area, they bought their land. They built their homes. It is been 20, 30 years for some; at this point in time, they are 60, 70 some years old. They don't feel, neither do I feel it is fair for this government to come in and unnecessarily condemn their homes or destroy their way of life for the last 20 or 30 years.

We have been coerced by the district to the point where we have—we even called the cops and filed a report against one of the district members, a copy of which I attached to my testimony. I have testimony from people that have sold, that, in their words, they can tell you, they feel they have been raped by their own government, by their own elected officials. These are not even Cubans that are living in that area. These are American families that were forced to sell because they called the district. And Mr. Sam Poole himself told them, if you don't sell now, later on we are going to condemn you. Her statement is in my testimony.

I was hoping this would not happen, but there is a lot of emotions and tensions that have been building up since November and even prior to that she is crying.

I ask of this board, consider this issue as we feel it was not the intention of the United States Congress back in 1989 when the Expansion Act was enacted to sacrifice the people of the 8-1/2 Square Mile Area. I feel their orders were clear to protect the 8-1/2 Square Mile Area.

The 8-1/2 Square Mile Area is a very productive area in Dade County. There is a lot of farming. There is a lot of ranch. We feel

we have the American dream in the 8-1/2 Square Mile Area. However, this dream has become a nightmare since November 12, 1998.

Right after this decision, the district was acquiring land in our area. And all this land have been leased to other individuals for farming purposes. Why can't we stay on our land and farm our land? Because in the name of restoration, they are trying to take it away from us and give it to somebody else to farm it? I don't think it is fair. I am sorry.

Mr. HANSEN. Maybe the Committee will ask questions, and we will go back to our witness. Will that be all right?

Mr. Gibbons.

Mr. GIBBONS. I pass on the questions and will yield back my time at this point.

Mr. HANSEN. Mr. Duncan.

Mr. DUNCAN. Mr. Chairman, all I would like to do is—I don't have a question. But what I would say is this:

This is so sad because the witnesses may not realize this, but this is happening all over this country. The Federal Government today owns a little over 30 percent of the land in this country, and State and local governments and quasi-governmental units own about another 20 percent, so that you have got roughly half the land in this country under some type of public ownership.

And what is disturbing, though, is that over the last 25 or 30 years, this percentage of the land that has been taken for public—by public governmental units has been growing by leaps and bounds. And these governmental units, particularly the Federal Government, but they always can rationalize or justify taking this land.

And what we are doing, we are very slowly destroying private property in this country. And if we don't wake up someday and realize that private property has been one of the real cornerstones of our prosperity, it has been something that set us apart from the former Soviet Union and places like that, and what is happening to these people, I mean, we are talking about an area that is 18,000 square miles, and today we are talking about this little time 8-1/2 square mile piece of property. But as Ms. Aguilera is showing, this really means a lot to these people.

Ms. AGUILERA. It does. It does, sir.

Mr. DUNCAN. And even the environmental movement should realize that the worst polluters in the world were the Socialist and Communist governments. People take better care of their own private property than is taken of property that is in public ownership.

I haven't been to this area, but I bet these people take good care of their property. It is so sad to think that a lot of these people, or most of them, are people who came from Cuba where land was confiscated and taken away from them by a Communist dictator, and now they come to the United States, a country that is supposed to be a free country, yet these people are coming all the way from south Florida to Washington, DC, to try to defend their little piece of the American dream.

The unbelievable thing is, this is happening all over this country. These liberal, left-wing, Socialist, big-government types think they can run everybody's life better than they can themselves. So they don't mind coming in and doing a really cruel thing and taking

away this property. And I just think that we need to speak out against it and that it needs to stop, or at least hopefully we can slow it down a little bit.

Thank you.

Mr. HANSEN. Thank you.

The gentleman from Pennsylvania? Mr. Sherwood, any comments you would like to make at this time?

Mr. SHERWOOD. Thank you. I have great empathy for the folks that are having the problems there, but I think it has pretty well been done. I have nothing else to say about it.

Mr. HANSEN. Okay.

Ibel, do you want to give it another shot? We realize things like that get very close to the heart, no question about it.

Ms. AGUILERA. Especially with me. I know most of these people personally, sir. I can tell you, my next-door neighbor, 76 years old, a retired World War II veteran, an ex-fire chief for the City of Tampa. His wife died 10 years ago. She was very close to me. Her dying wish was to have her ashes spread in her backyard, and this he did. Recently he told me he wants the same thing done with him the day he dies. He has no immediate family in south Florida, so my husband and I, we are the closest he ever has in the neighborhood.

Anyways, this gentleman lost his home to Andrew. He got involved with a contractor that took part of his money. And when he went back to the county to pull his permits, he was not allowed to. They told him he had a certain amount of time within to pull his permits and so forth. Anyways, he has spent thousands of dollars in attorneys' fees, and finally he has got his rebuilding permits back.

He is right now in the middle of his construction. Dade County keeps coming every month inspecting all the construction that is going on in his home. Nobody else told him to this date that he is going to have to give up his dream.

He is rebuilding his house, the 76-year-old. How are you going to tell this old man now that because, in the name of Everglades restoration when everybody knows it is not true, they are going to condemn his property, whatever he has got built in there right now? You might as well shoot him now. It is going to kill him anyways.

And like him, there is many elderly people that have lived and have made the 8-1/2 Square Mile Area the place away from their native land. How can we tell these people who have already suffered the taking away of their homes once before in their life that this is going to happen to them again?

Now they no longer can start building a new home anywhere else. Where are they going to go where they can have their horses, their cattles, their chickens, the animals they have in their farm these days? No where in this county.

So I ask this Committee to please help us, to help us save our 8-1/2 Square Mile Area, to help us keep our dream alive. We chose this 20, 30 years ago. We were allowed to do so legally, as we were permitted to build in this area. We have suffered the devastation of Hurricane Andrew, and we were allowed to rebuild.

Now, 7 years later, we have replanted our trees, rebuilt our homes. More or less our lives are back to normal. Why in God's name do they want our properties now? They know it is not necessary for restoration. There is clear scientific proof that it is not necessary for restoration.

So we ask this Committee to please intervene and help us save our community. Thank you.

Mr. HANSEN. And we thank you, Ibel. That was very good testimony.

[The prepared statement of Ms. Aguilera follows:]

April 21, 1999

Mr. James V. Hansen, Chairman
Subcommittee on National Parks & Public Lands
U.S. House of Representatives
H1-814 O'Neill House Office Building
Washington, D.C. 20515

Re: 8.5 Square Mile Area Issue

Gentlemen:

My name is Mrs. Ibel Aguilera, and I represent the United Property Owners & Friends of the 8.5 Square Mile Area, Inc. I am also a resident of the 8.5 SMA for almost 20 years.

Our homeowner's association (The United Property Owners and Friends of the 8.5 Square Mile Area, Inc.), at the request of the property owners of the 8.5 Square Mile Area, who are Not Willing Sellers, was created to fight the unscrupulous and unnecessary, November 12, 1998, decision of the South Florida Water Management District.

I was only nine years old, when I came to this Country from Cuba with my father (Rest in peace), my mother, one brother and two sisters. Although I was very young, my childhood memories are very much alive, the struggles my father had to endure to bring us to this Country, in search of a better future for us in the land of freedom and human rights.

It was very hard for my parents to leave their native Country knowing that perhaps they will never see their relatives and the rest of their family again, but their vision of a better future for us, was to them more important as parents than the suffering of the family ties left behind.

My husband also came from Cuba with his parents, for his family was even worse because they had to choose between all of them staying or leaving the older son behind and leave. In Cuba it used to be, and I don't know if that is still the case, that as soon as you reach your 15th birthday you were forced to enroll in the military militia to serve your Country. On the other hand my husband had just reached his 14th birthday.

This was a no win situation for my husband's family, if they were to stay the other son, soon was going to go into the military too, so they had to make probably the most hard but yet logical decision if they wanted to survive. It should be noted that my husband's father as well as their grandfather were, well known political figures prior to the Castro regime. My husband's grandfather was the first Mayor of their County and his father was the last Mayor, before Castro's revolution took over.

Against their will, but because of the situation they were in, they chose to leave the country with the hope that once they were in the United States they could bring the older son over.

Things didn't work out as fast as they thought it would and it wasn't until 11 years later, when the Mariel boat lift, that they were reunited again.

Immediately thereafter, both brothers acquired their properties in the 8.5SMA, one in front of the other. They both managed to build their homes, other members of their family also move into the area as they wanted to keep the family together. Their first cousin who used to live in Puerto Rico also purchased land in this area and built his home here, his son did the same.

Two of their nephews and their youngest sister also live in this area and have all raised and still raising their children in the 8.5SMA.

Our daughter was just one year old when we moved in our land, in a beat-up trailer, without electricity. We use to bathe in our parents home on our way home from work. We had a measly 12 volt extension cord with a light bulb that we used to hook up to the truck battery for a couple of ours at night, in order to have light inside the trailer. As soon as that light was disconnected from the battery, my husband had to turn on the truck for a few minutes to make sure the battery will be charged for the next morning to be able to go to work.

That is how we started here in the 8.5SMA, afterwards we were able to get our building permits and were able to move in into a bigger trailer and we were able to hook up the electricity.

As you can see it has not been a breeze for us, and for the many property owners like us who have made the 8.5 SMA their homes for the past 20 or 30 years, but we will not change the tranquility and the way of life, for the best high-rise condominium in Miami Beach.

There is no way the District can offer us a place compatible to what we have here today, where can we move and have all the family together as we have it here today, where can we all go together with all the animals that we have, and how can they compensate all the struggles, the hard work and the memories we have from this place.

My father passed away 11 years ago, but was able to enjoy many happy moments in our home and was part of the building of our home in the 8.5 SMA. I still recall the day after we finished our home and we had all the family over to celebrate, I could never forget my father's words "You have finally accomplished the American Dream, and no one, will ever take this away from you, Not in this Country!"

In our home in the 8.5 SMA, my husband and I have raised our daughter who has by now made us proud grandparents of a baby girl. We are helping our daughter raised our granddaughter whom I babysit every chance I get, while our daughter works. This is the kind of environment that I would like my granddaughter to be raised in, away from the problems that living in the big city creates for numerous teens every day.

My father might not be around anymore, but there are hundreds of elderly people that resides in the 8.5 square mile area, that like my father suffered, the separation of their family trying to give their children a better future. These persons, give me the strength to stand-up (very pervous, I assure you, as I am not use to do this) in public and fight this absurd, November

12th, 1998, decision made by the South Florida Water Management District.

I can't for the life of me imagine why on God's name, they want this area so bad, why would they completely ignore the will of Congress which, since 1989 under the Everglades Expansion Act, ordered that the 8.5SMA to be protected not to be taken against our will.

The District and those who support their November 12, out of the sunshine decision, have to this date caused a lot of human suffering to the people of the 8.5SMA, they have gone to the extreme, ignoring the emotional impact their decision was going to have for the majority of the elderly that have made the 8.5SMA their home since they were forced to leave their native land.

The majority of the property owners in the 8.5 Square Mile Area, are Cubans that immigrated to this Country after been disposed of their lands by a communist regime.

If you were to speak to them, they will tell you that, away from their native land, this is the place where they want to live until they died. They never imagine 30 years ago, when they purchase their land and built their homes (legally as they were allowed by Dade County to build in this area) that they were going to be faced with this inhumane taking of their homes, lands, their way of life for 30 years. What makes it even worst, is the fact that those who are so eager in destroying their lives are doing it under the name of Everglades Restoration, when everyone knows and has been scientifically proven, that the 8.5SMA is NOT necessary for Everglades Restoration.

The District in their effort to destroyed our Community has gone to the point of coercing our residents making them believe through their letters, their actions, that we have to sell, we have no choice, because according to them eventually, they will acquire the entire area.

Right after the November 12, 1998, decision not only they have sent letters to the residents telling them how they will proceed with the purchase of our area, but, they have had a spokesperson from the District name Maribel Malbin, addressed this issue in a Spanish radio station known as "Radio Mambi." Ms. Malbin made it clear on the radio, that the District was going to acquire the entire 8.5SMA, that it was unfortunate for those who lives in the 8.5 SMA but this was necessary for Everglades' Restoration, but she also assured the Spanish listening audience, that we need it not to worry because we were going to be fairly compensated for it.

Close to Christmas time, Ms. Malbin once again appeared in a Spanish television program called, "Politica Al Dia.," this television program is transmitted on Saturdays at 1:00PM, on this program again she went on to say that the District needed this area as this area was like a filter to the water flow into Everglades National Park, furthermore she stated that the area was like the Lungs to Everglades Restoration. She went on to say that it was unfortunate that we were allowed to live in this area, and that this was something that was long coming. Once again she reinstated that we will be fairly compensated.

My question to this committee as well as Ms. Malbin is, can you put a price into human suffering? Is there a price for 30 years of hard work, sweat and tears, a way of life for most of

us? ; how can anyone claim that this was long coming when our own County issued us the permits to build in this area? .

We all suffered the devastation of Hurricane Andrew back in August 1992, we were all allowed to rebuild, legally with building permits from Miami-Dade County. Now almost eight years later, after we rebuilt our homes, replanted our trees and more or less our lives are back to normal, how can anyone even think that we are just Willing Sellers.

What hurts even worst, is the fact that the same County that allowed us to leave here is trying to contribute to the condemnation of our homes. A County, which for the past 30 years have collected millions of dollars in property taxes from this area without providing any of the common services any other Community is entitled to like, garbage pick-up, road maintenance, etc.

This 8.5SMA Community is a very special place to all of us, we mostly know each other, our neighbors are not just neighbors next door. You can call on your neighbor at any time, day or night for whatever reason and you know for sure he will be there for you. We all look over for each other and help one another.

When Hurricane Andrew touched down in our area, even before the winds had calm down, my husband and his brother were out there on a heavy equipment, house to house rescuing people and bringing them all into what it was left of our home. I cannot express in words what I felt seeing all this people again, seeing that they were shaken-up but okay.

The hugs, the cries, that emotional moment was and will continue to be something unforgettable for all of us. With the help of one of our neighbor from across the street, we managed to get a little, portable gas stove going, in front of my porch (I had no kitchen) and we fed all this people something hot to eat. Afterwards, little by little, everyone head back, to what was left of their homes.

We had one soggy bedroom, with a broken window, with a single size humid bed, for us three to sleep that night. My daughter and I shared that bed while my husband slept on the floor. Our master bedroom and all of its content were basically destroyed as we lost part of the roof on that side of the house. Our elderly neighbor from next doors stayed with us, sleeping in one of our sofa. He stayed with us for a couple of days until his son came down from Tampa and brought him a trailer to live in.

The following morning after the storm, my husband was able to put together what was left of our water pump, with parts of our neighbors water pumps. For approximately a week, all my neighbors came to bathe at our house every day in the one bathroom that suffered the least damage. Thanks to an old beat-up welding machine that my husband had, and was able to get it working, we were able to use electrical current from this machine to run the water pump and later on the refrigerator.

Us women, we used to take turn cooking in the little gas stove that I had. My front porch became the community kitchen for the neighbors in our block, until everyone was able to acquire those unforgettable gasoline generators and more or less got things going in their

damaged homes.

This experience we all suffered is something none of us will ever forget, the bond that we had before is now stronger, we don't have just neighbors next door, we are all family in every sense of the word. There is no way we are going to allow the South Florida Water Management District to come and destroy our community in the name of restoration.

It is not our fault that they have wasted so much time and money in what they call research and have not acquired the vacant lands that they were ordered to do so by Congress, in 1989.

These land they were ordered to acquire ten years ago, are for what I understand mostly vacant lands, not land with homes like in our Community, so it makes me wonder if they are not trying to use the 8.5SMA as an excuse to justify their inability to follow congressional laws.

There are many public testimonies, which we have heard, from many experts on this field including, the Director of the Ecosystem Restoration Dept. of the South Florida Water Management District, who has also agreed that the 8.5 SMA is Not Necessary for Restoration. The District has taken the position of ignoring expert testimonies even their own scientific research of this area, why?

In a moment of desperation seeing the anguish of the residents of the area, and seen that everyone and everything was going against us, I wrote a letter to Congressman Lincoln Diaz-Balart (see attached), at that time he was in Washington D.C for the impeachment hearing of the president. I faxed this letter to him with the hope that every Congress person was going to get a copy of it, but unfortunately, I guess the way I made my request was not proper or perhaps it was not the correct way to do it because as of this date, I don't believe anyone has read my letter.

The South Florida Water Management District has managed to coerce people in this area, it is obvious that they are targeting those who perhaps because of the language barrier, have not made their voices heard. I can tell you from my own experience talking to the residents of the area, that some of the residents have had appraisals done in their properties without their request.

The District has mailed letters to some property owners and others like me, who own a home, a mango grove with more than 250 trees, on 2.5 acres, and the lot adjacent to my home, I have yet to receive some of those letters. For example there is a March 19, 1999, letter (see attached) circulating in the neighborhood from the District which I have yet to receive, but I have some of the residents calling me about it.

This letter clearly states that in order for the District to carry out their plan for the 8.5SMA it will be necessary for us, the property owners to move. Is their way of telling the property owners of the 8.5SMA that their November 12, decision is a done deal? Does, this means the District already has the funds available and the sole authority to totally acquire our area without any other due process? To me this is the biggest and most desperate coercion act that I have ever seen from a governmental agency.

However, considering the previous letter we all received right after the November 12, 1998 decision and a approximately a week away from Christmas, in which we were informed that they were initializing steps to acquire all of the land withing the 8.5 Square Mile Area, personally I am not surprise with this March 19, 1999-letter. It is obvious that people's emotions and feelings are of no concern to them.

I feel it should be noted that because of the December 9, 1998-letter (see attached) we had to have an emergency Community meeting to calm the residents down, it should be noted that at that meeting we had a really medical emergency due to one of the elderly (Mr. Borges) that attended this meeting in hopes of better news, were so stressed out and nervous thinking he was going to lose everything he had worked for, that he collapsed in the middle of our meeting.

We had to call 911 and thanks God it was not a heart attack as we all thought it was when it happened; it was something related to his diabetic condition.

As you can see by the illegal actions of the Districts through their correspondence to us, they are accomplishing exactly what they have aimed to do to us, coercing people making them believe that they are the ultimate deciding power, in respect to the 8.5 Square Mile Area.

You go outside the 8.5SMA and the people that talk to you regarding this issue, tells you the same story, you cannot fight government, they want your property and they are going to get it, that has been the way it always has been done. When government targets an area for acquisition, at the end they always get it, and those who wait for the last minute to sell will get peanuts.

Is that type of mentality that makes the residents wonder if in fact we can save our properties and leave behind this kind of mental and emotional abuse that we have been subjected to for so many years.

I feel that many of the property owners that have sold previously and those that might be considering selling to the District right now is because they have felt hopeless against a government that is simply using coercion to get what it wants. These are people that have been influenced into believing that you cannot win against the government.

Mrs. Debbie Sweeting's is a typical example of what I just mentioned. She is an ex-property owner of the 8.5SMA, as you can appreciate by her written statement to us (see attached) she sold her property to the District approximately a year prior to the District's finalizing their out of the sunshine, rubber stamp decision of November 12, 1998, they did not in fact wanted to sell but felt coerce into doing so by none other than the District Director himself, Mr. Samuel J. Poole.

This is an irreparable damage done against these people and God only knows how many more, as you can see the District was acquiring properties in this area long before they even made their decision public, long before they even had entered into any kind of purchasing agreement with the Miami-Dade County to whom as of this date have yet to enter into any purchasing agreement, that we know off, and most damaging without Congress approval.

They have gone to the extent, of harassing residents intimidating them and prohibiting family members to come into the area to deliver medicine to a poor sick woman. Please refer to the written statement from Ms. Elena Dieguez, a single mother with two children, a deputy police officer and resident of the 8.5SMA. Also, I am attaching the Police Report.

It makes one wonder how much money have been wasted unnecessary and how many people's life has been ruined for no reason. I can't for the life of me believe that a park superintendent along with a District director can have the authority to go beyond the will of Congress.

Another case of what I feel is coercion by the District is Ms. Yolanda Farias, a property owner of the 8.5 SMA. Ms. Farias recently called me to ask me if she could harvest her lemon grove this year, I asked her why not? She went on to say that although she did not return the authorization form to the District for the appraisal of her property, they contacted her over the telephone and told her to be at her property on February 9, 1999 as the District need it to do an inspection of her property.

She told me her and her daughter waited for the representatives of the District at her property for hours, and that when they were both ready to leave, these two gentlemen showed up coming from the back of her property, they didn't even use the front entrance to her property.

They informed her at that time that they had 15 properties in this area to be appraised that day, and hers were number 7 on their list.

According to Ms. Farias, she has yet to hear from them in writing or via telephone, but in the meantime she does not know what to do, can she harvest her lemons this year or not? I might have done her wrong, but I asked her if she wanted to sell her property and she told me No! , I further asked her if she had signed any contract for sale with the District and she told me No! , So I told her if she did not want to sell she did not have to, and that she can go ahead with the harvesting of her lemon grove which according to her is part of her annual household income.

Since the November 12, 1998, decision I have spoken to a lot of the residents in our area, they have all expressed their strong desire to stay in this area. The majority have stated to me that when they bought their land in this area and built their homes they all said to themselves if I cannot be buried in my country of origin, this is where I want to die and be buried.

Armando and Candelaria Prieto are a sweet, elderly couple, that have owned property in this area since 1966. They built their home legally in 1973 and for them this area has been their life since basically they left Cuba. They love the area and are not willing sellers. Mr. Prieto himself would have had love to address the Congressional Committee as he feels like many of us that something needs to be done and soon, before everything that we have work for gets destroy for no reason. Not been able to accompany me in this trip, he made sure I got his statement in order for everyone to know how he feels about this whole thing. I am attaching his Witten statement for your consideration.

I personally suffered the lost of my next door neighbor's ex-wife. She was like a second mother to me. This couple moved from Tampa to the 8.5SMA to retire here. He is World

War II Veteran, and a Retired City of Tampa Fire Chief. When his wife died approximately 10 years ago, her dying wish was to be cremated and have her ashes spread in their land. This he did, he has no immediate family in Miami so he is very close to me and my husband. He has told me, that the day he dies, he wants his ashes spread in his backyard just like his wife, I don't see how we can deprive this gentleman of his land, now.

After hurricane Andrew, my neighbor hired a contractor to rebuilt his home and the contractor disappeared with part of his money. Later on he managed to get a loan from the Government to rebuild his home, but when he went back to the County, to get the required permits they denied him the right to rebuilt. According to the County (and this is something I did not know myself) the residents of this area had a certain amount of time to pull their permits, and he did not pull the permits within the allowable time. It wasn't even his fault that he did not get the required permits within the allowable time, the County claimed he had to do so, it was all because of the contractor that defrauded him.

He didn't give up, he hired an attorney, spend thousands of dollars, went trough so many hearings that finally he was granted the right to built his home, legally, once again.

He is now in the middle of the construction of his home, no one from the County has told him he can no longer build his home, on the contrary, the County continues coming and approving his inspections. To tell this 76-year-old man, in its current deteriorated health condition, that he is going to have to sell his property to the District, you minus well shoot him in his forehead now, because taking his land will kill him anyway.

I just can't believe that lies, manipulation and coercion will stand above a Democratic Government, a government that is supposed to stand for the people and by the people not the other way around, a government that through Congress, almost 10 years ago ordered to Protect the 8.5 Square Mile Area Not to Destroy the people of the 8.5 Square Mile Area.

This form of government, which we are seeing today, is not the government that I believe in, and for which I became a Citizen of this Country. This is not the type of government for which I solely swear to defend and bear arms for it if necessary, I cannot believe that this great nation that proclaims human rights and democracy throughout the world would look the other way when it comes to its own citizens.

I can tell you all, that this whole ordeal has unnecessary change the lives of so many people in a way that is very hard to explain. Speaking for myself, I can tell you that prior to this I thought I had a very good stable family life. My husband and I are very close and we used to spend a lot of time together when he was not at work. We used to go horse back riding a lot on weekends, sometimes in the middle of the week, just to relax and enjoy the sunset, or in the evening to enjoy a nice clear sky full of stars.

We used to communicate a lot within ourselves, the way all married couples should, ever since the November 12, 1998 decision of the South Florida Water Management District, that tranquil, close life we used to have, has become something of the past.

I am constantly out, in meetings, my telephone does not stop ringing with the residents trying to find out what is going on or to ask why their neighbor received correspondence from the District and they didn't, etc. I am beginning to feel that this whole issue is starting to break a 22-year marriage apart.

I am caught between my personal life and the lives of those who are depending on me to help them not to loose their homes, my husband recently commented that if this situation continues at the end he is going to end up without a home and without a wife.

Not only I have hardly any time for my family, I have no time for myself, I have gone from a woman size 10 to a size six in clothes. Some people think that I am sick because all the weight I have lost, and I am not, is all the stress, the lack of time to stop and have a decent breakfast or lunch. This 8.5SMA issue is something that is in my mind 24 hours a day, 7 days a week.


I just hope that this nightmare will end soon, because honestly, if this continues for much longer there won't be much of me left when this is over.

With so many natural disasters happening every day, throughout the world, claiming thousands of innocent peoples lives, I feel we should be concentrating in helping one another not trying to destroy entire communities, unnecessary and subsequently creating more unnecessary human suffering.

On behalf of The United Property Owners and Friends of the 8.5 Square Mile Area, Inc. and myself, I ask this Committee to intervene against what we all consider to be an abuse of power from a bunch of non elected bureaucrats.

We ask that you help us save our Community in the 8.5SMA, we feel we have suffered enough living in this kind of uncertainty for so many years. We want to be left alone so that we can resume a normal way of life, a way of life that we feel we should be entitled to under the Constitution of this great Nation of ours.

Sincerely yours,



Mrs. Ibel Aguilera, Director
The United Property Owners & Friends
of the 8.5 Square Mile Area, Inc.

Please, Help Us Save Our Square - Our Lands Are Not for Sale!

November 16, 1998

CONGRESS OF THE UNITED STATES
House of Representatives
Washington, D.C 20515

Re: Land Acquisition for Restoration
of the Everglades National Park;
Residents of the 8.5 Square Miles.

Members of the United States Congress,

I respectfully submit a humanitarian request as a Resident of the 8.5 Square Miles, as I do not feel it was the intentions of our Congress to change for ever, the Lives of 700 Families currently living in this area.

To me this kind of action is something you would expect from a Communist Country, Not from this great Nation of ours.

For years, this area, East of the Wonderful Florida Everglades, has been a big controversy among Environmentalists, Property Owners and the different agencies involved such as Federal, Local and State.

I have been an owner/resident of this area for almost 20 years. My husband and I, have raised our daughter in this home which is also currently the home of our granddaughter.

Throughout the years, although we have paid property taxes just like anyone else in this country, nor the State or County has provided for us or any of the residents of this area, the normal services citizens are entitled to such as garbage collection, streets/maintenance, and needless to say "FLOOD PROTECTION" which is something that Congress granted us back in 1989. (Everglades National Park Expansion Act - PL 101229).

Although Congress granted "Flood Protection" to the residents of the 8.5 square mile area back in 1989, on occasions we have been flooded intentionally by the South Florida Water Managements District, to the point, that some of the children living in the area were deprived from attending their schools as the water level on their roads were unpassable by automobiles.

Needless to say, the loss of animals that have drowned, and for some of the farmers, the loss of the only source of income which is their annual crops.

These flooding in our areas were not as the result of direct rainfall in the area, these flooding have been carried out by the same District (SFWMD) that is now forcing over seven hundred families to move out of the area.

I personally agree, with a statement that was said to the members of the South Florida Water Management District in their meeting on November 12, 1998, "the problem which they all claimed exist today in the Florida Everglades was not created as a result of the 8.5 square miles residents living in the area, this is a problem that has and will continued to exist with or without the residents, as this is the DIRECT RESULT OF MISMANAGEMENT BY THIS DISTRICT".

For years, the "Army Corps of Engineering" stood behind a flood control plan, which according to them was going to benefit the Residents of the 8.5 Mile Area as well as the Restoration of the Everglades, if I am not mistaken \$31 million dollars were allocated by Congress for this project.

This plan, which I've been told, was endorsed by Everglades National Park and the South Florida Water Management District, was sent to Congress in 1992. Six years later, nothing has been done, no one has officially challenged this plan and to make things worse, the SFWMD announced the Total Acquisition of the 8.5 Square Mile Area against the opposition of the Residents of the area.

In 1994, Governor Lawton Chiles, created a committee to study the area and find a solution that was supposed to benefit both the Park and the Residents of the 8.5 Square Miles.

From these studies six alternatives were presented to the Residents of the Area at a public Hearing held October 5th, 1998, at a local school. (see attached)

Hundreds of Residents of the area, attended this meeting and all agreed upon "ALTERNATIVE #2", our message was CLEAR, we are Not interested in SELLING, and we wanted a solution to end the years of struggles and uncertainty.

Our unanimous decision for Alternative #2, is merely what we as citizens should be entitled to, as we all feel is our Constitutional/Human Right, to have a better quality of life for us and our generations to come.

All of the Residents of the area, pay property taxes, just like any other Citizens throughout this Country, the only difference between any other Citizen and the Residents of the 8.5 Square Mile Area (as we are referred to) is that, our property taxes pays someone else's street maintenance, street lights, garbage collection, etc.

Our Wonderful County, has pocketed millions of taxpayer's

dollars from our community throughout the years, and yet, they can't spare some of those millions acquired to let us live in peace in Our Homes, in our Small Community, they rather use our own taxpayer's money to Destroy Hundreds of Human Beings Dreams.

These are our government officials, officials elected by the people who are supposed to Represent a Government for the People and by the People, Except on this case, were the "People is for the Government and the Government is for the Government Itself.

I refuse to believe, that the intentions of the United States Congress back in 1989, when they provided us with Flood Protection in a law, authorizing the expansion of the Everglades National Park by 17,600 acres, was going to create such a major impact in the way of life of over 700 residents in one area along.

Needless to say, the destruction of thousands of animals including but not limited to horses, cattle, dogs, etc; who will probably end up in meat factories. The impact on their lives should also be considered.

We, the Residents of the 8.5 Square Mile Area, are all for the Restoration and Preservation of the Florida Everglades as we, ourselves are Nature Lovers, that is the main reason we all chose the 8.5 Square Mile Area for our homes. This place to many of us is where we have raised our children, away from the City and its problems.

As of right now, it is a known fact, that the majority of the vacant lands that had been acquired for the Restoration of the Everglades, have been leased for farming purposes, also some of the houses acquired for the same purpose, are now, Permanent Residences for the Park Rangers in the area.

Therefore, it does not take a scientist/ genius to realize that the taking of our homes and lands is Not for the merely purpose of restoring the Everglades to its original/natural estate. Fertilizers/Pesticides used to cultivate these lands, now owned by the government, and leased to private individuals, are not going to deliver the quality of water the Park needs in order to preserve its natural estate.

Also, not demolishing all the residences as we were told, to make a natural water flow into the Everglades, only those that the Park Rangers feel they don't have use for it it is "NOT" restoring the natural water flow into the Everglades.

My personal opinion is that not even the environmentalists know exactly what is involved in the acquisition of our homes and lands, as it is not clear by the actions of the agencies involved, that the sole purpose of the total acquisition of the 8.5 Square Mile Area is for the sole purpose of restoring the Florida Everglades.

The more I think about this, the more I feel that a decision of this magnitude, were it involves the future of so many families, a whole community, should have come from a higher authority from our government. How can 7 or 8 members of the South Florida Water Management District decide on an issue as big as the future of so many families. I feel this action taken against us, the residents of the 8.5 Square Mile, is an "Abuse Of Power By the South Florida Water Management District".

We have no representation whatsoever, we had it while our beloved Dante Fascell was our Representative, his successor, Rep. Peter Deutsch, does not care for our Community, why should he?, he's from Pembroke Pines/Broward County, he's not from South Dade therefore, why should he care?, he does not know us, I had yet to see or hear him speak on our behalf on any public hearing.

When my parents fled from Communist Cuba, was for us, the new generation, to be raised in a Country where people had freedom and democracy, so that we did not had to face what they faced when they were disposed of all their properties, the taking of their homes by a Dictator.

Can someone help me explain to my mother, the only living parent I have, that now, at this present time, I am facing the something we abandoned our country of origin for?.

People are quickly to say that this acquisition is not like Castro's because we are going to be bought out. Can you put a price in a person's way of life?, is there a price for a whole lifetime dream?, can money pay for human feelings?.

There are things money can't buy, we are not asking nothing that it can not be done, us living here is of no great impact to the restoration of the Everglades National Park, if it was government officials shouldn't be living in the area either, nor our lands will be taking from us and then leased for farming purposes.

Since we have no representation, this is the only way I felt I would be heard, and I am hoping Congress has an open mind in this issue which is of the outmost concern not just to me, but to all the families in our area.

I feel Congress should take a closer look at what is happening with the millions of dollars that have, and will continued to be allocated for future acquisitions of lands for the Restoration of the Everglades and specially, to what I feel is an Abuse of Power by some of the districts officials, today is us the Residents of the 8.5 Square Mile, tomorrow it could be someone else's community.

When are they going to Stop, does anyone knows for sure if all this it's really going to work?, how many Billions of dollars is the government willing to spend, how many lives are they

willing to affect in the process, before knowing if this will all work.


The South Florida Water Management District is now talking that the goal of this project involves a total of 180,000 acres, does anyone really know how much land is required for the Restoration of the Everglades?, does Congress know how many millions of dollars have already been spent in these studies along?.

I hope someone has the answers to at least have of these questions, because personally I feel people are getting frustrated with this whole issue, and we are not seeing any results for the benefits of the park or the people affected by all this studies, on the contrary, what we seen is a government that is beginning to take too much, that is spending too much money that could be used in other researches to benefit millions of sick people.

I would greatly appreciate someone taking the time to get back to me regarding this issue. I would like to reinstate that the Residents of the 8.5 Square Mile Area Are Not Willing Sellers, there is no place in South Florida that could equally compensate the way of life we the have in the 8.5 square Mile Area. We are going to fight this decision by the South Florida Water Management District as we feel this is a violation of our rights as american citizens.

Thank you for your prompt attention to this matter.

Sincerely yours,



Mrs. Ibel Aguilera
15621 S.W. 209th Avenue
11Miami, Florida 33187

Mr. HANSEN. And let me ask my colleagues if they have any further questions for this panel. The one in the chair has to watch the clock, and the rest of the folks don't have to as much, but we are almost out of time for this room.

So if you have anything burning in your bosom you want to add, I will give you another minute each or my colleagues from Tennessee and Pennsylvania if they have any further comment.

If not, excellent testimony. But I want to say to you the same as I did the last panel, we have some questions for you that we would like some written answers to the best of your ability if you would. Would that be all right?

Ms. AGUILERA. Absolutely.

Ms. LORION. Yes.

Mr. SHIVER. Yes.

[The information may be found at the end of the hearing.]

Mr. HANSEN. Thank you so much for your testimony.

You know, as the gentleman from Tennessee pointed out, sometimes we see movements come along, and they become a little extreme; and all over America now we are seeing people get into this issue of private property, what can you take and what can't you take. And as a past city councilman, State legislator, and other things, sure, Mayor, I know what it is like. I sat in a position like yours for a few years. Sure, we have to condemn some area for a right-of-way occasionally or a waterline or whatever it may be.

But when you want to get to very sacred stuff, start talking to people's property and what they have. I think our Founding Fathers wisely put that in the Constitution, which I think, to a certain extent, has been kind of trampled upon over the years and something we should be very careful of.

The gentleman from Tennessee pointed out 30 percent of the country is owned by the Federal Government until you get to where I live, and those figures go up. My State is 73 percent. I think Mr. Gibbon's State is 90 percent. Mrs. Cubin's State is 80-something percent. So we are very, very sensitive to the Federal Government coming in and stomping on our rights.

However, there is moderation. I don't know who said moderation in all things, but whoever did, it should be scriptural, because really there is some point we can reach, some moderation in things, without some extreme application taking away our rights.

You look at our people out West, when somebody finds a slimy slug on their property, we give up 100,000 acres sometimes for it. And we say, why is this so important to us. So you are always fighting these kind of arguments.

So we take what was stated today very seriously. And I can tell you, this Committee on both sides of the political aisle feel very strong about private property rights, and we will look into this in detail. And this is just the start of what we will be doing on this issue.

With that said, this hearing is adjourned.

[Whereupon, at 12:35 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows.]



South Florida Water Management District

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045
TDD (561) 697-2574

December 9, 1998

Dear 8.5 Square Mile Project Landowner:

Subject: 8.5 SQUARE MILE FLOW-WAY/BUFFER PROJECT

On November 12, 1998, the South Florida Water Management District Governing Board approved acquisition of the entire 8.5 Square Mile area to facilitate implementation of the Modified Water Deliveries to Everglades National Park project. This project is designed to restore fresh water flow to Northeast Shark Slough, for the benefit of the Everglades and Florida Bay. The 8.5 Square Mile Area is an essential component of the restoration of the Everglades.

We are now initiating steps to acquire all the land within the 8.5 Square Mile area. First priority will be given to those property owners who express a desire to sell their property. This will be supplemented by the acquisition from a west to east fashion. The objective is to complete the acquisition program within the next three years. The purpose of this letter is to inform you of the acquisition process.

ACQUISITION PROCESS

There are many functions that must be completed before the District can make an offer to acquire your property. The landowners must be identified and the project mapped. The mapping will identify each property and owner within the area. A legal description of the property is completed which is provided to a title company under contract with the District. The title company will perform a title search to confirm the record title owner and the condition of the title.

PREPARATION OF THE APPRAISAL

Concurrently, the District will have a contract appraiser prepare an appraisal on the property. You will be contacted during the process to be given an opportunity to accompany the Appraiser on the inspection of the property. This is your opportunity to inform the Appraiser of the amenities in your property. You are urged to join the Appraiser during this inspection. The appraisal will be used as a basis to make an offer on the land appraised. When the appraisal is received, it will be reviewed by a District employee called a Review Appraiser who have special training in the reviewing of appraisals. They will assure that the appraisal report is accurate and that the conclusion reached by the Contract Appraiser has been fully supported. Once the appraisal has been approved by the Review Appraiser, the District will be in a position to tender an offer to the landowner. The offer made will be in an amount equal to the approved appraised value.

ENVIRONMENTAL AUDIT

During the time that the appraisal is being prepared, the District will also conduct an environmental audit of the property. The purpose of the environmental audit is to assure the property is not environmentally impaired. The appraisal will be conducted on the basis that the property is free and clear of any environmental impairments and solid waste. If either is present, it will be the responsibility of the landowner to remedy this situation prior to closing.

Governing Board:
Frank Williamson, Jr., Chairman
Eugene K. Pettis, Vice Chairman
Mitchell W. Berger

Vera M. Carter
William E. Graham
William Hammond

Richard A. Machek
Michael D. Minton
Miriam Singer

Samuel E. Poole III, Executive Director
Michael Slayton, Deputy Executive Director

Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680

PRIORITIES

Highest priority will be given to those landowners who contact the District and request acquisition, including those who do so as a result of this letter. To the extent that funding is available, acquisitions will then proceed generally from west to east.

Funding. The sources of funding will be a combination of Federal, State and County funds. The Federal Government has committed to funding 50 per cent of this project. Congress has appropriated \$60 million for fiscal year 1999 to the Department of the Interior. Interior representatives have advised the District that some portion of these funds are available for acquisitions in the 8.5 Square Mile area.

The District's Governing Board is requiring Miami/Dade County to commit to a portion of the remaining 50 per cent before it will authorize any acquisitions to be completed on behalf of the District. Thus, we will start the acquisition process and enter into agreements with landowners but those agreements, however, the closing will not occur without a funding commitment from Miami/Dade County.

The District currently has some funds available that will also be used in these acquisitions.

RELOCATION BENEFITS

Since this acquisition program is being done in coordination with the Federal Government, the District is required to comply with Public Law 91-646, Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970. This Act requires that all closing costs be paid by the acquiring agency. Also, the property owner may be entitled to other benefits. The enclosed pamphlet entitled "Your Rights and Benefits as a Displaced Person" will answer many of your questions. This program will be explained more specifically during the acquisition process.

INTERIM USE OF RESIDENCES

Many of the properties to be acquired contain a residence. In accordance with the Federal Relocation Act, property owners will be allowed a period not exceeding 90 days after closing, without a reduction in the purchase price, to vacate their property.

RETAINED USE FOR AGRICULTURAL PURPOSES

The present use of many of these properties is for agriculture. Some of these owners may desire to continue to use this property after closing to allow for an orderly transfer to another location. The District will allow such use to continue, for a period not exceeding five years, on the basis that it will assume no responsibility for any damage that may occur from flooding. The value of this continued use will be determined during the appraisal process for those owners who express such an interest.

EARLY ACQUISITIONS

If you desire the District to appraise your property and make an offer to purchase your property, please complete and return the attached form entitled Property Inspection Certificate and Right of Entry. The information contained on this form will help us to better serve you in this acquisition.

STAFFING

This program will receive very high priority. Staffing will be assigned to it who will make the acquisition of land in this project their primary responsibility.

NEXT STEP

If you complete and return the enclosed Property Inspection Certificate and Right of Entry, the acquisition process will be initiated. If you have questions and desire to speak to someone you may call 1-800-355-2010.

WHEN WILL I RECEIVE AN OFFER

The acquisition process outlined above is very time consuming. Also, the number of property owners who enter the process will influence the speed of acquisition. Our best estimate is that you should receive an offer from us within six months from the time we receive the Property Inspection Certificate and Right of Entry. We will make every effort to reduce this time period.

COST AND OBLIGATION

We will undertake the appraisal process and other acquisition functions at no cost to you. Also, you are under no obligation to accept the offer.

We realize that this is an important decision for you to make. Our intent is to make sure you are fully informed so you can make the decision that best fits your circumstances.

Sincerely,



Charles R. Rinaldi
Deputy Director – Land
Construction & Land Management Department

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
PROPERTY INSPECTION CERTIFICATE AND RIGHT OF ENTRY**
(PICROE FORM)

Project: 8.5 Square Mile Project SFWMD Tract Number: _____

Property Location: County: _____ Section: _____ Township: _____ Range: _____

Property Tax Folio Number: _____

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT IS HEREBY AUTHORIZED TO ENTER
THE ABOVE DESCRIBED PROPERTY TO INSPECT AND PERFORM APPRAISAL AND
ENVIRONMENTAL WORK DURING THE PERIOD ENDING ONE YEAR FROM THE DATE
SIGNED BELOW**

To assist us in performing this work please provide us with the below information:

I wish to accompany the appraiser: _____ and/or environmental inspector: _____

I do not wish to accompany the appraiser: _____ and/or environmental inspector: _____

I wish to designate as our representative _____ whose phone number is: _____

Type of property: Vacant: _____; Agricultural improved (farm buildings): _____; Single Family
Residence: _____; Nursery: _____ Mobile Home: _____ or Others, explain: _____

Is the property your permanent personal residence: _____ Date of occupancy: _____

Are you currently getting homestead exemption: _____

Is the property leased or rented? _____ Tenant's/Lessee's Name & Address: _____

Phone number: _____

Date of tenant's occupancy: _____ Date tenant's lease expires: _____

Is the property used for commercial purposes? _____ Explain: _____

Type and how many buildings or other improvements on the property _____

Approximate date you acquired the property? _____

Name and addresses of all owner(s):

Name: _____ Marital Status: _____ Address and Zip Code _____ Phone Number _____

Date Signed: _____

Approval & Signature of Owner: _____

Please complete and return this PICROE Form to Barbara Bernstein, Real Estate Division, P.O. Box 24680, West Palm Beach, FL 33416-4680.



South Florida Water Management District

3301 Golf Club Road, West Palm Beach, Florida 33406 • (561) 686-RR00 • FL WATS 1-800-432-2045
TDD (561) 697-2574

LAN 06
March 10, 1999

SUBJECT: 90-DAY LETTER OF ASSURANCE
Uniform Relocation Assistance Act
In reply refer to:
Project: 8.5 Square Mile Area

The South Florida Water Management District ("District") is in the process of providing relocation services for the 8.5 Square Mile Area Project. To carry out our plans for the 8.5 Square Mile Area, it will be necessary for you to move. However, you do not need to move now. This is notice that you or your tenant will be eligible for relocation assistance when a written offer is submitted to acquire a part or all of certain real estate owned and/or occupied by you or your tenant.

In an effort to ensure that you will receive adequate time within which to negotiate any relocation, the District is giving this assurance that you will not be required to move from this property before at least ninety (90) days have elapsed from the date of receipt of this letter. Furthermore, you will be given a written notice that will specify the actual date by which the property must be vacated and surrendered to the District. You will receive this latter notice at least thirty (30) days prior to the date specified. When you move, you will be entitled to relocation payments and other assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended ("Uniform Relocation Act"). For additional relocation information, carefully read the booklet entitled "Your Rights and Benefits as a Displaced Person", previously mailed to you.

If you are a residential occupant, you are assured that you will not be required to move in less than ninety (90) days from the date a comparable replacement dwelling is made available to you.

If you are a displaced business, farm or non-profit organization you may be eligible for reimbursement for the actual reasonable cost of moving your business, farm or non-profit organization and a payment up to \$10,000 to help reestablish your business, farm or non-profit organization at another location. As an alternative to these payments, you may, if you meet certain eligibility conditions, elect to receive a fixed payment that is based on your average annual net earnings. The minimum fixed payment is \$1,000; the maximum fixed payment is \$20,000.

Governing Board:
Frank Williamson, Jr., Chairman
Eugene K. Parris, Vice Chairman
Mitchell W. Beiger

Vera M. Carter
William E. Graham
William Hammond

Richard A. Mazhek
Michael D. Minnen
Miriam Singer

Samuel E. Poole III, Executive Director
Michael Shyman, Deputy Executive Director

Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680

March 10, 1999.
Page 2

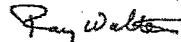
I have been selected to assist you in your relocation. My duties include providing relocation advisory assistance and replacement housing information to eligible displaced persons, as well as the determination of maximum benefits, processing of claims and the distribution of relocation payments.

To proceed with providing you relocation assistance, I ask that you complete the enclosed Relocation Assistance Questionnaire and return it to me in the enclosed envelope, by March 26, 1999. Upon review of the completed questionnaire you will be contacted regarding your eligibility for benefits, and an appointment for a personal site interview will be scheduled if applicable. We will be scheduling appointments the week of March 29-April 2, 1999. If we do not receive a completed questionnaire, we may presume that the property is vacant and you may lose your entitlement to receive Relocation Assistance benefits.

If the property is vacant, with no improvements and no personal property to be relocated, there may be no relocation applicable unless a determination is made otherwise; however, in order to make an accurate determination, we ask that you complete all pertinent information on the relocation questionnaire.

It is the sincere desire of the South Florida Water Management District to assist you in your relocation necessitated by this acquisition and to answer any questions you may have. If you have any questions or if you need any additional information, please contact me at (561) 682-6834 or in Florida at (800) 432-2045, extension 6834.

Sincerely,



Ray Walter
Senior Real Estate Specialist
Real Estate Division
South Florida Water Management District

RW/dr
Enclosures

STATEMENT OF DEBBIE SWEETING
4/20/99

My name is Debbie Sweeting. I am married to Robert Sweeting and I live with him at 18401 SW 224 St., Miami.

In 1997, when we sold our home to the water management district, I was to one who did most of the talking to the district employees because my husband refused to speak with them. We sold our home to the district because we were told by Sam Poole, the director of the South Florida Water Management District, that if we did not sell to them now, that our land would eventually be condemned and taken. If we waited until then to settle, we would only receive the amount of money that the district chose to give us.

We felt that we had no choice but to take the amount of money the district offered us and leave because conditions were unbearable and would not improve. If the district was going to condemn our land and take it, we felt we might just as well leave so we did not loose any more money than we had already lost.

As a result of the years of fighting and abuse and losing my home the way I did, I feel like I have been raped by the government agencies and the people who I elected into office.

Debbie Sweeting
305 242-8242

STATEMENT OF ROBERT SWEETING4/18/99

My name is Robert Sweeting. In 1985 I purchased 2.5 acres of land in the 8.5 square mile area. This property had a 3 bedroom, 2 bath house that was built in 1980. The address of this property is 14020 SW 217 Ave. Miami, FL 33186. In 1988 I married my wife Debbie and she moved into my home with me.

When I first purchased my land, I intended to plant a fruit orchard and retire there. Our house was a fixer-upper, but over the course of the years we added quite a few improvements. In 1992, Hurricane Andrew damaged my house severely, but I rebuilt it with my insurance money. When we sold the house to the District, we had a pool and a large screened enclosure.

Before I bought this property, I talked with area residents who showed me documents from the Corps of Engineers showing a flood protection system that they were going to build to protect the area. But over the years this has not been done. We have gone to so many meetings that I can't remember where they started and where they ended. At these meetings I never felt that the involved government agencies would allow any real input from me, the public. It became apparent that not only the SFWMD but Dade County and every other agency in the government, intended to run us off our land.

We were unable to get any help from our elected officials. When Alex Penelas was vice chair of the County Commission he told me "Nobody told you to move there!" We felt that we had no choice but to sell our home because the land would eventually be condemned by the District and acquired. At meeting after meeting the dates for the construction of our flood protection canal were moved back by decades. It became apparent to me from conversations with District personnel that no canal would ever be built and that the land would eventually be condemned and acquired.

In October 1996, I sold my house to the District because I was under the impression that conditions would never improve and that the District was going to condemn our land and take it. The District gave me \$113,000. My home and property was worth at least between \$130,000 and \$145,000.

My wife and I felt that our situation was only deteriorating and that it would continue to get worse and we had no other options but to take whatever amount of money the SFWMD offered us and leave our home. The District has done to us what

they did to my neighbors-they have destroyed the American Dream! I never thought that it was the job of the government to take the homes and property of citizens for no good reason.

Robert C. Buckley
305-242-8242

STATEMENT OF EMILIO ROSARIO4/20/99

My name is Emilio Rosario. I live at 14463 SW 152 Place, Miami, Florida, 33189. In 1973 I bought five acres of land in the 8.5 square mile area. My family and I built a 5 bedroom, 3 bath house at 21471 SW 152 St., Miami, Florida, 33187. We lived in a house trailer on the property for six years while we built the house. It was finished in 1979.

I went to a lot of government meetings over the years. In 1989, Dante Fascell got Congress to give us flood protection. You sort of believe them in the beginning because you need the hope that someone is looking out for you. We had a flood protection plan approved and it really hurt that these government agencies couldn't get together to do it.

I sold my house to the water management district because I was told that if I did not the district would take it to court and get it condemned. In 1997, I requested an appraisal of my property from the water management district, just to see what they would offer me. After I received the districts' price, I spoke with a water management employee, Barbara Bernstein, over the phone. When I asked her what would happen if I didn't accept the price the district offered me for my home, she told me that "There is only going to be one offer. If you don't accept it, it will go to court in two years and your property will be condemned and taken. We're only going to make you one offer-Take it or leave it!"

I sold my house in August 1997. I was the first person to sell to the district. I never saw the district's appraisal of my property. The district gave me \$180,000 for a 3600 square foot, 5 bedroom, 3 bath home with an in-ground pool on five acres. A similar property elsewhere in Dade County could sell for \$250,000. I had to pay closing costs as well. I was not allowed to take any of the appliances or fixtures, even though the house was going to be demolished.

It was nerve wracking for us to move. The district was unable to give me any assurances as to the date for the closing. I had only one day to move all of my family's belonging from my property. I was unable to move a tractor, so I came back for it the next day after I closed. Two water management employees tried to prevent me from taking my \$7000 tractor and told me that I could be arrested. I removed my tractor anyway and was told that the next day the property would be padlocked.

I am not happy about this entire transaction. I built my home with my own hands and lived there for over 20 years. I'm getting older, and this constant fighting really took it out of me. I didn't get what my property was worth. I had a lot of trouble with the district employees that I dealt with. I just felt that I had no choice but to sell. I felt I had no other options. This is something that you would think was happening in Cuba, not here, in the United States. After a while you just can't fight them anymore-you give up.

Yours Truly
Emilio Rosario

STATEMENT OF ELENA DIEGUEZ
4/18/99

My name is Elena Dieguez. I live with my two children at 14601 SW 217 Avenue, Miami, Florida, 33196. I have lived at this address since May, 1992. My house is on a 5 acre lot and has 4,000 square feet of space with 3 bedrooms, 2.5 bathrooms and two screened porches. I also have a 3,000 square foot, 10 stall, concrete horse barn and a fenced pasture. My mortgage is for the amount of \$260,000.

My mother, Mercedes Formoso, lived with me up until two days after Christmas when I had to admit her to the hospital. She died a month ago from cancer. She was diagnosed with cancer in April 1995, just after we had finished rebuilding the house after the hurricane and moved back in.

As my mother became progressively more ill and it became apparent that she was not going to recover, she requested that she be allowed to die at home. I was unable to provide my mother with her last wish. The roads out to my house are so bad that I was unable to find anyone to come out to the house and stay with her while I worked. I worried about her constantly while I was at work. Finally, her condition became so bad that I was afraid to leave her alone and I was forced to put her in the hospital and then in a nursing home where she died. Hospice care would have provided someone to stay with her at our home, but I was not able to find anyone who would drive on our roads. The roads are so bad that when I called 911 to take my mother to the hospital, someone had to drive out to SW 168 Street, the closest paved road, and lead the ambulance to my house!

I would have sold my house and moved into town if I had been able to, but because of the South Florida Water Management District's buy out of the area, I am not able to put my house on the open market. As I said, my mortgage is for \$260,000. The South Florida Water Management District offered me \$250,000-\$10,000 less than my mortgage. I would have been without a home, with two small children, a sick mother and a \$10,000 debt so I was not financially able to accept the District's offer.

I am also prevented from earning any income from my horse stalls because of the threat of eminent domain. No one wants to board their horses at a place that will be condemned shortly. Stalls normally rent for between \$225 and \$275 a month. I had counted on being able to earn some income from my property when I took out the mortgage to repair the house after the hurricane, but I have not been able to do that. I

am afraid that I may lose my home and still be \$10,000 in debt!

Last year, a District employee, Antonio Romansch, stopped my mother's brother, Louis Formoso, from driving to my house. He had gone to the drugstore to get medicine for my mother and was delivering it to her. Mr. Romansch told my uncle that he was not allowed to drive on any of the roads out here because they all belonged to the South Florida Water Management District, which incidentally is not true. My uncle was frightened and went home without ever giving my mother her medicine.

Subsequent to this, I filed a complaint of harassment against Mr. Romansch. # 1305564

I am not able to sell my home to anyone other than the district, nor can I generate any income from my property. My mother and I worked very hard after the hurricane to rebuild our home and make a good life for my two children. My mother's last wish was to come home to die and I had to deny her that wish. Now I plan to bury her ashes on the property, next to the home she loved so much, just as she requested that I do. What will I do if the district takes my house? I can't recover my mother's ashes and move them to a new location!

I am a deputy police officer with two small children. I live from paycheck to paycheck because I can neither sell my house nor keep up with my mortgage alone. My oldest daughter has a genetic disorder called Beckwith Wiedeman syndrome and this is another added worry. I just want the chance to provide my family with a normal life, but I am prevented from doing this by the South Florida Water Management District's buyout of the 8.5 square mile area.

Cherish
305 - 232 - 2752

[illegible]

Gang Name		Narrative Continuation		Agency Report Number		Juvenile in Report		1. Original 2. Supplement	
Original Date Received 07-14-98		Original Agency's Offense Description HARASSMENT		Victim's Name DEQUEZ, E.		Original NCIC/NCJR Case Number		New NCIC/NCJR Case Number	
Date of Reporting Agency 140130Z 019A		Agency's Offense Category 1		Victim's Age 4		Victim's Sex M		Victim's Race W	

DURING ABOVE DATES AND TIMES SUBJECT
 (ROMANACH) HARASSED AND VERBALLY THREATEN
 DENYING PERSONS USE OF THE DIRT ROAD TO
 GAIN ACCESS TO AND FROM ABOVE RESIDENCE.

SUBJECT(ROMANACH) STOPS VEHICLE ON THE
 DIRT ROAD DEMANDING DRIVER LICENSES
 AND DEMANDING TO SEARCH INTERIOR OF
 SAID VEHICLES.

SUBJECT(ROMANACH) FURTHER THREATENS THAT
 "THIS RESIDENCE IS BEING AUCTIONED OFF
 AND THAT WE (SO FLA. WATER MANAGEMENT)
 ARE FLOODING IT."

Suspect Code B - Subject A - Arrestee		Code # 1 - Yes 2 - No		Offense Indicator 1 - Yes 2 - No		Residence Type 1 - City 2 - Suburban 3 - Rural 4 - Out of State		Citizenship 1 - Yes 2 - No		Drug Indication 1 - Yes 2 - No 3 - Unknown		Alcohol Indication 1 - Yes 2 - No 3 - Unknown	
B - Subject A - Arrestee M - Victim S - Suspect N - N/A O - Driver P - Possess T - Traffic		M - Single K - Driver D - Driver P - Possess E - Other		M - Manufacturer Z - Other P - Possess E - Other		Drug Type N - N/A A - Amphetamine B - Barbiturate C - Cocaine E - Heroin		H - Marijuana M - Marijuana O - Other		F - Perpetrator S - Spill T - Traffic		U - Unknown V - Other	
1 - Yes 2 - No 1 - Yes 2 - No		Name of Person or Corporation (Last, First, Initial) _____		Address (Street, Apt. Number) _____		City _____		State _____		Zip _____		Residence Phone _____	
Verified By (Name) _____		Date _____		Time _____		Signature _____		Date _____		Time _____		1 - Turned Over to HRS-CYF 2 - Turned Over to HRS-CYF 3 - Incorporated County Jail	
Released By (Name) _____		Date _____		Time _____		Signature _____		Date _____		Time _____		1 - Turned Over to HRS-CYF 2 - Turned Over to HRS-CYF 3 - Incorporated County Jail	
Person/Unit Number _____		Title _____		Related Report Number(s) _____		Date _____		Time _____		Signature _____		Date _____	
Offense Number C. ALVAREZ		ID Number 1128182		Unit 112205		Date 03-14-98		Time 03-14-98		Signature _____		Date _____	
Officer Numbering (if Applicable) _____		ID Number _____		Related To _____		Assign To _____		Date _____		Time _____		Signature _____	

STATEMENT OF ARMANDO J. PRIETO**4/18/99**

My name is Armando J Prieto. I live with my wife Candelaria at 1851 NW 22 Place, Miami, Florida, 33125. Our phone number is 305 6341273. In 1966, my wife and I purchased 2.5 acres in the 8.5 square mile area. The address of this property is 13050 SW 199 Ave. Miami, Florida 33196. We built a two bedroom, two bathroom house on this property in 1973. We built this house with our own hands. We planted avocados, mangoes, papayas, guavas, mamee, and bananas. We divided our time between our house in town and our farm in the 8.5 square mile area. Hurricane Andrew damaged 50 % of our house. We did not have insurance so we rebuilt it ourselves with no help from any government agency.

Ever since 1978 when they finished the L-31 N canal and levee we have felt unsure of the intentions of the water management district. It has been for us a nightmare. We don't know what will happen next. At one point, Mr. Malone, then the director of the district, told me that he "didn't give a damn about the area!" These are his exact words as I recollect them now. I knew right there that we had a fight in front of us.

We have received numerous letters from the SFWMD in the past. In June 13, 1996, we received a letter that stated that the SFWMD was going ahead with something called Phase I -a flow way/buffer project and that our land was "not within the acquisition area. But the letter went on to say that "finale design of the project may require additional land" and we would be "notified later if any need to acquire our land arose." Then, in a subsequent letter the district told us that if they did not construct the flow way/buffer project they could keep the property they purchased or, they could sell the land if they chose.

After the Nov. 12, 1998 decision of the district governing board we received another letter from the district that stated we had to sell our property to them. Not only that-a district employee, Marabell Balbin, was on the Marta Flores radio show and stated on the air that area residents had to sell their land because this was the finale decision of the district. We felt very frustrated to hear her say these things on the radio. The way the issue has been presented to us is that we have no choice and that no matter what we did they would get our land. Throughout the radio show Ms. Balbin continued to restate that there was nothing we could do to stop the district from buying

our homes.

We feel that we have been in limbo-we have felt that we are at a disadvantage because we don't know what will happen next. **My wife and I feel that our lives and our property are not for sale!** I want to spend the last days of my life in my home surrounded by nature and the trees in my orchard.

My wife and I love our land. In the late 1960's, I planted a shade tree in my front yard. It was one of the first trees that I planted. When Hurricane Andrew knocked it down, I spent \$500 to stand it back up so it would not die. After the tree was doing well, my wife and I carved our initials in the tree and it is still there and thriving. My recently married grandson and his wife have just carved their initials in this tree as well. This is how much we love our land. I am an old man. When I die, I have asked my wife and daughters to bury me on my property if that is possible. My wife and I are not willing sellers but the District makes it sound like my wife and I have no choice and this makes us both very sad.


305 634 1273

My name is Madeleine Fortin. In September 1994, I purchased a house in the 8.5 square mile area. I defied the will of Congress, democracy is doomed. I was heckled with state and federal land acquisition offices and was told that no agency had any plans to purchase the area. I was shown a map by the Corps of Engineers that showed the Corps project to provide the area with a small protective canal and levee as authorized by the Everglades National Park Protection Act. I had no sooner moved in than I was told that the South Florida Water Management District had plans to condemn the area and acquire it, in defiance of the will of Congress!

As a result of the inability of the involved agencies to do what they were ordered to do by Congress, my life, and the lives of over a thousand people, have been severely disrupted. Not only that, the entire Everglades watershed south of Lake Okeechobee is being destroyed by the unnaturally high water being held back in the Water Conservation Areas. Ninety-five percent of the deer have died and the tree islands and hardwood hammocks are dying.

The 8.5 square mile area is separated from the rest of Dade County, Florida, not by a real geographic or hydrologic boundary, but by an arbitrarily placed ideological boundary. We have been stigmatized as villains in order to justify the forced acquisition of our homes and farms. I would like to address you, not as an impacted homeowner, but as an anthropologist. This issue, what to do about the 8.5 square mile area, has become my master's thesis. I've titled my thesis Pariah, Florida for obvious reasons.

As populations increase in number and density, how our society makes land use decisions becomes more and more critical. Currently in south Florida, we see the government buying up huge amounts of private property under the guise of "restoring the ecosystem." We have yet to see any corresponding increase in environmental quality as a result of this huge expenditure of public funds. Lands that have been acquired because they were "too environmentally sensitive to farm" are currently being rented out to farmers! Homes that were purchased by the Park Service because the land was "too environmentally sensitive to allow people to live there" are being used to house park employees!

As a society we need to rethink our approach to land use issues. The collectivization of land never works, no matter what ideological stance is used to justify it. A "central planning" approach is not a workable solution. It infringes on the constitutional rights of private people and necessitates the expenditure of huge amounts of taxpayer money. But, even more importantly, the people making the decisions are not held responsible for the results of their decisions and so the violation of Constitutional rights and the ecological destruction continues. Decisions about the restoration of the Everglades are not being made based on science or facts, but on unstated agency agendas and the ecosystem is suffering as a result. It would be much more fruitful (and certainly cheaper) to find ways to generate citizen-based behaviors that protect the environment. The residents in the 8.5 square mile area love the environment—that's why we live in it. The people who live in the environment can do more to protect environmental quality than all the bureaucrats in Washington. I would like to suggest that it would be more productive to find ways to include private citizens in the decision making process. We need to become active participants, not passive recipients. Instead of thinking of private people as environmental villains, I would like to suggest that it would be much more productive to think of us as an untapped reservoir of potential activists—activists who center their activity on their own local environmental issues and then live with the results of their actions.

I would like to close by saying that the situation appears to be this: In ten years, three huge government agencies, with thousands of personnel and millions of dollars in federal funds, have been unable to turn one shovel full of dirt to dig a ditch! I had always thought that the will of Congress was absolute, but this does not appear to be the case in south Florida. I urge you to remove funding approval for the 8.5 square mile area flood protection canal and levee from Everglades National Park and give it to the Corps of Engineers. The Park's obstructionist tactics and refusal to be a team player are ruining the lives of thousands of people and putting an entire ecosystem in jeopardy.

We beg you to help us! When government agencies run by appointed bureaucrats can defy the will of Congress, democracy is doomed!

Madeleine Fortin



THE EVERGLADES FOUNDATION, INC.

Reply to:
Post Office Box 1873
Orlando, FL 32802-1873
Phone: (407) 872-7300
Fax: (407) 839-4531

May 10, 1999

The Honorable James C. Hansen, Chairman
Subcommittee on National Parks & Public Lands
Resources Committee
814 O'Neill HOB
Washington, D.C. 20515

Dear Mr. Chairman:

The Everglades Foundation appreciates your subcommittee's desire to obtain information about issues related to restoration of the Everglades, as evidenced by your subcommittee's hearing on April 27th. Everglades restoration is an issue of national significance, not merely for the funding it will require, but especially because the Everglades is our heritage and our legacy. It is about the people's land, and the drinking water for five million citizens of the United States. The Everglades is one of Earth's richest biological treasures, the only World Heritage Site in our nation. What we do or don't do for Everglades restoration will stand forever as our legacy—for Florida, our nation, and the world.

Unfortunately, it appears; from the list of witnesses who testified, that your committee heard only one side of a complicated Everglades restoration issue. In the interest of what The Everglades Foundation believes is best for the Everglades, I would like to supplement the opinions your committee heard on the 8.5 Square Mile Area.

The Everglades Foundation is a proponent of full acquisition, also known as Alternative 6, of the 8.5 SMA for the following reasons:

- Full acquisition creates the largest water recharge area between Everglades National Park and the developed areas.
- The entire population of the Florida Keys is dependent upon the quantity, quality, and timing of water flows. The 8.5 SMA is a critical component of these flows.
- Monroe County (home of the Florida Keys, which generates 13 million tourist days annually) adopted a resolution on March 24, 1999, endorsing full acquisition of the 8.5 SMA


POST OFFICE BOX 1915, ISLAMORADA, FLORIDA 33036

Honorable James C. Hansen, Chairman
May 10, 1999
Page 2

- It eliminates water pollution since it requires no water quality treatment.
- It ensures the maximum protection of habitats.
- Alternative 1, the USACE Flood Mitigation Plan which establishes a large perimeter levee and seepage canal, would increase costs by more than \$200 million over Alternative 6. In addition, Alternative 1 has an annual operation and maintenance cost approaching \$2 million, while Alternative 6 requires only \$130,000.
- Alternative 1 was developed three years before completion and acceptance of the National System Model (NSM) which showed that restoration requires greater flows in the 8.5 SMA.
- The NSM model showed the need to dramatically increase water flows and levels through the southern Everglades. Increased surface water elevations (NSM levels) in the park expansion area will increase groundwater elevations in the 8.5 SMA, killing trees and causing septic systems to fail. The increase in groundwater elevations will result in flooding during even normal rain events.
- At NSM levels, the pumping facilities designed in 1992 are inadequate to control flooding in the 8.5 SMA.
- Alternative 1 was presented to Congress in 1992 and was designed to ensure the 8.5 SMA did not get wetter because of increased floods; it was not intended to provide flood protection above then-current conditions.
- More than half of the 365 residential units in the 8.5 SMA are illegal (166 structures, on 566 acres, are legally permitted; 199 structures, on 686 acres, are illegal).
- A willing seller program is ongoing in the area, and there is every indication that the majority of property owners are anxious to sell.
- Acquisition of the 8.5 SMA is ranked number three on the list of priority projects for federal Farm Bill appropriations.

I am enclosing a paper entitled, "Truth Patrol: Rebutting the Myth and Misinformation Campaign in the 8.5 Square Mile Area," as well as a copy of a letter to Mayor Alex Penelas from Senator Graham and Senator Mack, stating their support for full acquisition of the 8.5 Square Mile Area. Please include my letter and the enclosures in the record of your hearing.

Very truly yours,


Mary L. Bailey

TRUTH PATROL:

Rebutting the Myth and Misinformation Campaign in the 8.5 Square Mile Area

On January 1, 1999, representatives of the Miccosukee Tribe released a statement entitled; "Land Confiscation is Bad for People and the Everglades." The statement is laden with inaccuracies and misrepresentations regarding the sensitive issue of the 8.5 Square Mile Area. This "truth sheet" is intended to cut through the heated rhetoric surrounding this issue and facilitate a factual review of this important matter.

MYTH #1: The delay in the implementation of the Everglades Expansion and Protection Act of 1989 ("the 1989 Act") has been caused by "bureaucratic stonewalling."

TRUTH: It is often advantageous to attack the federal bureaucracy during a debate on policy, but the blame for this delay falls squarely on the shoulders of Congress. Until fiscal year 1997, Congress simply did not provide sufficient funding for the National Park Service to acquire lands that the 1989 Act added to Everglades National Park for the specific reason of rehydrating the Park and restoring Florida Bay. This impasse should be resolved in the near future because President Clinton's fiscal year 2000 budget includes sufficient funds to complete these acquisitions. In addition, to accelerate the process, Congress recently approved declaration of taking authority for the National Park Service to expedite acquisitions.

MYTH #2: "Congress directed the Army Corps of Engineers to protect the 8.5 Square Mile Area, not remove the residents, as it restored natural water flows."

TRUTH: The 1989 Act directed the Corps to restore water flows without "adversely affecting" those owning land in the 8.5 Square Mile Area. Further, if the 8.5 Square Mile Area was adversely affected by the Modified Water Delivery Project, the 1989 Act states that, "the Secretary of the Army is authorized and directed to construct a flood protection system for that portion of presently developed land within such area."

MYTH #3: The plan developed by the Corps in 1992 and the full acquisition decision of the South Florida Water Management District "will both equally restore water flows to Shark River Slough."

TRUTH: In 1995, the South Florida Water Management District in conjunction with the Corps developed the Natural Systems Model ("NSM"). This model showed the need to dramatically increase water flows and levels through the southern Everglades, including the expansion area, to ensure restoration in Everglades National Park. These increased flows and levels were significantly higher than anticipated during the design of the 1992 Corps project. The increased flows and levels anticipated by NSM can not be "mitigated" by the proposed 1992 Corps project. Although the proposed Corps project could conceivably provide "1 in 10" flood protection for the 8.5 SMA for surface water flow, it will not protect the 8.5 SMA from increased groundwater flows.

Increased surface water elevations (NSM levels) in the park expansion area will increase groundwater elevations in the 8.5 SMA. These increased groundwater elevations in the 8.5 SMA will inundate tree roots (killing trees) and septic systems (causing system failures). During normal rain events, the increase in the elevation of the water table will inhibit drainage in the 8.5 Square Mile Area and almost certainly cause flooding and adverse affect to flora and fauna. This condition would trigger the provision of flood protection to those in the 8.5 Square Mile Area.

MYTH #4: Why pay \$120 million local, state, and federal cost-share when there is a 100% federal solution that costs \$39 million?

TRUTH: Miami-Dade and Florida taxpayers also pay federal taxes, so they have most interest in not wasting money. Not only will constructing the 1992 Corps plan create an expectation of flood protection to landowners in the 8.5 SMA, but it also will trigger the provision of flood protection as mandated by the 1989 Act. This would drive the overall cost of the 1992 Corps project to approximately \$240 million and create a new and unsustainable "gateway" community directly adjacent to Everglade National Park. However, the full acquisition alternative will still only cost \$120 million and not further encourage suburban sprawl.

MYTH #5: "This removal [of the 8.5 SMA residents] would be a local issue if government hadn't wrapped it in a 'restoration' flag."

TRUTH: Restoration is a local issue because the Everglades are an integral component to the Miami-Dade's multi-billion dollar tourism industry and also critical to the South Florida's recreational and commercial fishing industry. Further, the water supply benefits of the restoration project will prevent future water shortages thereby providing stabilizing force on the real estate market. Collateral damage of unsound local land use policies does not recognize jurisdictional boundaries, and the 1992 Corps plan advocated by the Miccosukee Tribe will:

- Impair the ability to restore the Everglades that, after all, is the federal government's compelling reason for participating in this joint venture.
- Exacerbate several difficult regional water management issues within the Everglades watershed. Pressures on how to manage downstream flows through Everglades National Park will put the District in a position of restricting flows in order to avoid triggering full flood protection for the 8.5 SMA. If that course is chosen, the Caloosahatchee basin, Charlotte Harbor, the St. Lucie River, Lake Okechobee, and the Water Conservation Areas will continue bearing the brunt of continuing the existing practice of "stacking" water.
- Accelerate the need for additional water storage facilities in the region.

MYTH #6: "The District's false assertion that this rural area must be bought to restore the Everglades means that every U.S. taxpayer will pay to raze people's homes and end by fiat a longstanding local land use dispute."

TRUTH: The fact is that the only plan that will avoid condemnation of property owners is the provision of full flood protection for the entire 8.5 SMA. Under the 1993 Corps plan, which has the strong support of the Miccosukee Tribe, approximately 25% of the westernmost portion of the 8.5 SMA will need to be acquired. A large number of the most vocal opponents of the full acquisition alternative live in the westernmost portion of the 8.5 SMA and have repeatedly vowed in public hearings that they will never sell their land.

MYTH #7: "The District has decided that State and Federal taxpayers will pay at least \$80 million more to buy the area than they would to build the Corps project."

TRUTH: The District can only spend its own funds; it has no authority over federal funds. On this project, the Secretary of the Interior and the U.S. Congress control the expenditure of funds. Public Law 105-277 gave the Secretary of the Interior the discretion to contribute a 50% match of federal funds for acquisitions within the boundaries of the South Florida Water Management District. Pending the findings of an Environmental Assessment and/or Environmental Impact Statement, the Secretary can contribute up to 50% to the cost of land acquisition in the 8.5 SMA. That is the basis of Secretary Babbitt's position, and one that has been endorsed by Senator Bob Graham and Senator Connie Mack.

MYTH #8: They [the District] argue that Miami-Dade County might have to pay \$155 million to provide improved roads, drainage, and other services. This is false because the Corps mitigation plan project does not automatically trigger services."

TRUTH: Construction of the Corps project will trigger the provision of flood protection. Once flood protection is provided, enormous pressure will not only build to increase density in the 8.5 SMA, but also to develop adjacent lands presently in agriculture. Residents have stated their willingness to support zoning density restrictions of 1 unit per 5 acres -- but this "concession" would enable a 300% increase in existing development in the 8.5 SMA.

MYTH #9: "Even if it did, the local services issue is of no concern to Federal taxpayers."

TRUTH: Again, this argument forgets the fact that Miami-Dade and Florida taxpayers also pay federal taxes. Further, the health, preservation and protection of Everglades National Park, Biscayne National Park, Big Cypress National Preserve, and the Florida Keys National Marine Sanctuary is the primary concern of the U.S. taxpayer.

MYTH #10: "The actions of Interior and the District in the 8.5 Square Mile Area are bad for property rights, bad for budgets, and bad for the Everglades."

TRUTH: The full acquisition alternative is the most cost-effective solution to this matter; it is the fairest decision to the millions of Miami-Dade residents whom unlike those in the 8.5 SMA, live east of the flood protection levee and inside Miami-Dade's Urban Development Boundary; and it is the best alternative for rehydrating Everglades National Park and restoring Florida Bay.

